

THE BENGAL CODE,

In Four Volumes:

CONTAINING

**The Regulations, Ordinance and Local
Acts in force in the Presidency of
Fort William in Bengal ;**

WITH

**Tables and Lists, Notes as to Scheduled Districts and
De-Regulationised Tracts, and Notifications declaring
Enactments in force in, or extending Enactments
to, such Districts and Tracts,**

and a Full Index.

FOURTH EDITION.

EDITED BY

F. G. WIGLEY, C. I. E.,

**Of the Inner Temple, Barrister-at-Law,
Late Secretary to the Bengal Legislative Council.**

VOLUME II :

Bengal Acts, 1852 to 1890.

**(Edited in part by A. W. Watson, I.C.S., Secretary to the Govt. of Bengal,
Legislative Department.)**



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THE BENGAL CODE.

VOLUME II.

BENGAL ACTS, 1862 TO 1890.

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PREFACE.

THIS, the second volume of the Bengal Code, contains such of the Bengal Acts of the years 1862 to 1890 as are now in force in the Presidency of Fort William in Bengal or in any part of that Presidency. The system followed in editing the volume is described in the Preface to Volume I of the Code.

F. G. WIGLEY.*

* It was arranged, when Mr. Wigley left India in April, 1913, that he should see the whole of this edition of the Bengal Code through the Press, as Volume I was then almost ready and he had made substantial progress in the preparation of Volume II,—having indeed passed a first proof of the same corrected as up to 31st December, 1912. Owing, however, to the engrossing nature of his duties at the India Office, Mr. Wigley has found it impossible to devote any time in England to the further editing of this Code and it has accordingly devolved upon his successor to undertake the duty. Considerable delay in the publication of Volumes II to IV has, in the circumstances, been unavoidable; but with a view to bringing them as much up to date as possible I have incorporated in them all changes (affecting Acts contained therein) which have resulted from legislation in the Imperial and Local Councils during 1913 and 1914, as also the necessary consequential foot-notes. I have to acknowledge the capable assistance rendered to me in this connection by Mr. M. M. Mukherji, Legal Assistant in the Bengal Legislative Department.

A. W. WATSON, I.C.S.,
Secy. to the Govt. of Bengal,
Legislative Department.

CALCUTTA,
The 21st September, 1914.

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME

[With respect to the entry of repealing enactments in column 4 of this Table, the following has been the ordinary practice :—

- (1) where an enactment has been totally repealed more than once, the latest repealing enactment has alone been entered ;
- (2) where an enactment has been partially repealed and afterwards totally repealed, the total repeal only has been entered : a repeal of the unrepealed portions of an enactment is treated as a total repeal ;
- (3) partial repeals covered by later partial repeals have not been entered ;
- (4) local repeals covered by later local repeals have not been entered ;
- (5) where an enactment has been locally repealed and afterwards repealed by an enactment whose operation is unrestricted, the later repealing enactment has alone been entered.]

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Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.

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¹ The expression "Ben. Act." or "Bengal Act", as used in this Code, means an Act made by the Lieutenant-Governor of Bengal in Council or the Governor of Fort William in Bengal in Council as the case may be—cf. the Bengal General Clauses Act, 1859 (Ben. Act 1 of 1859), s. 3, cl. (8), in Vol. III of this Code.

² Ben. Act 2 of 1906 has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6 Sch. IV.

³ E. B. and A. Act 1 of 1907 has been extended to Western Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 4, Sch. II

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¹ Ben. Act 2 of 1906 has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV.

² E. B. & A. Act 1 of 1907 has been extended to Western Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 4, Sch. II.

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¹ Ben. Act 3 of 1909 has been extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

² E. B. and A. Act 1 of 1911 has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. IV.

³ Ben. Act 2 of 1911 has been extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

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1882	2	The Embankment Act, 1882.	S. 16 rep., s. 17 rep. in pt., Act 9 of 1890. Ss. 1, 2, 46 rep. in pt., Act 1 of 1903.	635
1883	3	The Bengal Tramways Act, 1883.	S. 1 rep. in pt., Act 1 of 1903 ... S. 41 am., Ben. Act 1 of 1904.	667

¹ Ben. Act 5 of 1906 has been extended to Eastern Bengal by the Bengal Laws Act, 1916 (Ben. Act 1 of 1916), s. 3, Sch. I.

² *Sic. Road Boards.*

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—*contd.*

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
BENGAL ACTS— <i>contd.</i>				
1883	5	The Darjeeling and Kurseong Municipal (Porters) Act, 1883.	Short title given, Act 1 of 1903 ...	688
1884	1	The Puri Lodging-House (Extension) Act, 1884.	Short title given, Act 1 of 1903 ... S. 1 rep., Act 1 of 1903. Rep. (in Western Bengal), Ben. Act 3 of 1908.	689
1884	2	The Calcutta Tramways (Amendment) Act, 1884.	Short title given, Act 1 of 1903 ... Preamble and ss. 3, 4 am., s. 1 rep. in pt., s. 2 rep., Act 1 of 1903.	691
"	3	The Bengal Municipal Act, 1884.	S. 251 am., ss. 251A to 251D ins., Ben. Act 3 of 1886. Sch. 2 rep. in pt., Ben. Act 2 of 1888. S. 261 rep. in pt., Ben. Act 1 of 1893, s. 46. Ss. 2, 9, 14, 15, 17, 20, 22, 23, 24, 26, 27, 28, 30, 38, 58, 59(a), 68, 82, 86, 89, 97, 98, 99, 101, 113, 114, 121, 126, 127, 186, 187, 199, 200, 208, 210, 212, 217 (s), 218 to 220, 236 to 242, 243, 261, 262, 270, 271, 273 (r), 279, 290, 307, 321, 322, 339, 350, 353, 355 and Sch. V am., s. 6, cl. (14A), ins., ss. 9A, 9B, 25A, 26A, 26B, 27A, 29A, 37A to 37M, 66A, 97A, 111A, 141A, 147A, 199A, 210A, 225A, 242A, 256A, 256B, 260A, 262A, 318A, 334A, 349A, 349B, 350A, 351A ins., ss. 11, 12, 18, 327, 328 rep., ss. 46, 57, 76, 85, 87, 320, 351 rep. in pt. and am., ss. 116, 142 (c), 263, 294 rep. in pt., Ben. Act 4 of 1894. Ss. 15, 37L, 39, 42, 69, 70, 131, 142, 238 (r), 279, 321, 322 (s), 350, 351A am., ss. 69A, 69B, 141B, 147B ins., s. 141A rep. in pt., s. 147A rep. in pt. and am., Ben. Act 2 of 1896.	700
(See next page.)				

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—*contd.*

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
BENGAL ACTS— <i>contd.</i>				
1884	3	The Bengal Municipal Act, 1884— <i>contd.</i>	<p>Se. 37J, 219 am., Act 5 of 1897.</p> <p>In Howrah—rep. in pt., Ben. Act 3 of 1899, s. 642.</p> <p>In Darjeeling—s. 6, cls. (30) to (35), added; ss. 6A, 182A, 182B, 201A to 201G, 207A, 210B, 210C, 224A to 224C, 229A, 244A to 244Z, 248A to 248E, 272A to 272E, 350B, 351B to 351H ins.; ss. 175 to 182 barred in certain cases; ss. 191, 201, 207, 220, 227, 228, 236 to 244, 350A am.; ss. 208, 232, 267, 270 (4), (5) rep.; ss. 218, 224, 229, 271, 272 (2), 273 (1) rep. in pt.; Schs. A to D added; Ben. Act 1 of 1900.</p> <p>S. 168 rep. in pt., Act 2 of 1901.</p> <p>Se. 1, 2 rep. in pt., Act 1 of 1903.</p> <p>S. 66 (b) expld. (in Western Bengal), Ben. Act 2 of 1910, s. 2.¹</p> <p>Rep., locally (in Western Bengal), Ben. Act 5 of 1911, s. 147 (when and where notified).</p> <p>Pt. XIB (ss. 349C to 349H), ins., Ben. Act 3 of 1914.</p>	
1885	1	The Bengal Ferries Act, 1885.	S. 18 rep. in pt., Act 2 of 1901 ...	887
"	3	The Bengal Local Self-Government Act of 1885.	<p>S. 45 and Sch. II am., Act 1 of 1903</p> <p>Ss. 1, 6, 25, 73, 103 rep. in pt.; ss. 5, 7, 10, 11, 13, 15, 17, 19, 22, 25 to 27, 29, 32, 33, 35, 36, 44, 48, 50, 52, 53, 56, 58 to 61, 63, 65, 67, 73, 82, 86, 91, 99 (and heading thereto), 100, 104 to 111, 114 to 119, 130 to 134, 138, 139, 142, 144, Sch. II, am.; ss. 16, 24, 34, 72 rep.; s. 18 rep. in pt. and am.; ss. 18A, 19A, 23A, 26A, 29A, 35A, 41A, 53A, 64A, 65A, 65B, 78A, 86A to 86M, 88A, 99A, 118A to 118D ins. (in Western Bengal), Ben. Act 5 of 1908.²</p> <p>(See next page.)</p>	907

¹ Section 2 of Ben. Act 2 of 1910 has been extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² Ben. Act 5 of 1908 has been extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 3, Sch. I.

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—*contd.*

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.
BENGAL ACTS— <i>contd.</i>				
1885	3	The Bengal Local Self-Government Act of 1885— <i>contd.</i>	Rep., locally (in Western Bengal), Ben. Act 5 of 1911, s. 147 (when and where notified). New s. 29B ins., ss. 64A, 138 am., ss. 9, 13, 117, 118C, rep. in pt., Ben. Act 1 of 1914.	
1886	1	The Bengal Village-chaukidari (Amendment) Act, 1886.	Short title given, Act 1 of 1903 ... Ss. 3, 6, 10, 11 virt. am., Ben. Act 1 of 1892, ss. 2 (2), 15, 16; s. 13 virt. rep. in pt., Ben. Act 1 of 1892, s. 17. Ss. 2, 8 rep., Act 5 of 1897. S. 1 rep. in pt., Act 1 of 1903.	976
"	2	The Calcutta and Suburban Police (Amendment) Act, 1886.	Short title given, Act 1 of 1903 ... S. 1 rep., Act 1 of 1903. S. 4 rep., Ben. Act 3 of 1910.	977
	3	The Bengal Municipal (Amendment) Act, 1886.	Short title given, Act 1 of 1903 ... Rep. (as to Ben. Act 4 of 1876), Ben. Act 2 of 1888. S. 1 rep., Act 1 of 1903.	979
1887	1	The Calcutta Survey Act, 1887.	Declared applicable to Provincial Municipalities, Ben. Act 3 of 1884, s. 223A (ins. by Ben. Act 4 of 1894, s. 66). S. 1 rep. in pt., Act 1 of 1903.	983
	2	The Bengal Vaccination (Amendment) Act, 1887.	Short title given, Act 1 of 1903 ... S. 1 rep. in pt., s. 3 am., Act 5 of 1897.	989
1888	3	The Howrah Bridge Amendment Act, 1888.	S. 2 rep. in pt., Act 1 of 1903 ...	991

CHRONOLOGICAL TABLE OF ENACTMENTS PRINTED IN THIS VOLUME—*consolid.*

1	2	3	4	5
Year.	No.	Short title.	How repealed or otherwise affected in Bengal by legislation.	Page.

BENGAL ACTS—*consolid.*

1889	2	The Private Fisheries Protection Act, 1889.	Supplemented, Act 4 of 1897 ...	993
"	4	The Calcutta Burial Boards Act, 1889.	Short title given, Act 1 of 1903 ... S. 1 rep., Act 1 of 1903. Ss. 14 to 19 substituted and Sch. II rep., Ben. Act 1 of 1913.	997
1890	2	The Bengal Vaccination (Amendment) Act, 1890.	Short title given, Act 1 of 1903 ... Ss. 1, 4 (S) rep., ss. 2, 3 am., Act 1 of 1903.	1003
	3	The Calcutta Port Act, 1890.	S. 113 (I) am., Ben. Act 2 of 1894 ... Ss. 13 (2), 90, 109, 113 (2), 114 (I), 115 am., ss. 32A, 104A, 122A, 122B, 122C ins., s. 104 rep. in pt., ss. 106, 108 rep. in pt. and am., Ben. Act 4 of 1895. Ss. 35, 105, 116, 126 am., ss. 66A to 66N ins., Ben. Act 6 of 1895. Ss. 112, 113 (2) am., Ben. Act 2 of 1898. Ss. 30, 34, 94 am., Act 1 of 1903. Ss. 5, 6 (I), 35, 106 am., s. 105 A ins., Ben. Act 4 of 1905. Ss. 19, 20, 22, 24 (I), 91(I), 108 am., s. 24A ins., s. 110, Sch. II rep., Sch. III renumbered as Sch. II, Ben. Act 2 of 1907. S. 20A ins., Ben. Act 1 of 1908. Ss. 30, 31, 33, 34 (I) am., Ben. Act 1 of 1910. Ss. 49, 50, 73 am., Ben. Act 1 of 1912.	1013

THE BENGAL CODE.

VOLUME II.

BENGAL ACTS OF 1862 TO 1890, IN FORCE IN THE PRESIDENCY OF FORT WILLIAM IN BENGAL.

BENGAL ACT 3 OF 1862

[THE BENGAL LAND-REVENUE SALES (AMENDMENT) ACT,
1862].¹

(23rd April, 1862.)

An Act to amend Act 11 of 1859 (to improve the law relating
to sales of land for arrears of revenue in the Lower
Provinces under the Bengal Presidency.)

Whereas it is expedient to extend the period allowed for
the registry of * * * tenures * * * and to alter the scale
of fees on certain applications for the opening of separate
accounts for shares of entire estates, for deposit of money or
Government securities, and for registry of under-tenures and
farms; It is enacted as follows:—

1. *Repeal of ss. 45 and 59 of the Bengal Land-revenue
Sales Act, 1859 (11 of 1859). Rep. by the Repealing Act, 1873
(12 of 1873).*

2.

¹SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. 1—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—see Act 10 of 1914, Sch. II.

LOCAL EXTENT.—Since this Act is (see s. 4, post, p. 2) to be taken and read as part of the Bengal Land-revenue Sales Act, 1859 (11 of 1859), it has the same local extent as that Act—see Vol. I of this Code.

The Act has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874), section 5, to the following Scheduled Districts, namely:—

the Western Duars, in the Jalpaiguri District—see Vol. IV, Part IV; and
the Darjeeling District—see ib.

It will be noticed that this Act has not, like the Bengal Land-revenue Sales Act, 1859 (11 of 1859), been expressly declared by notification under the Scheduled Districts Act, 1874, to be in force in West Jalpaiguri.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

² The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

³ This includes the present Presidency of Fort William in Bengal and other territory.

⁴ The word “under,” which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

⁵ The words “and farms,” which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁶ The first two paragraphs of a. 2, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. They ran as follows:—

“Applications under sections 40, 48 and 44 of Act 11 of 1859, for registry of tenures and farms created before the passing of Act 11 of 1859, must be made within three years of the passing of this Act.

Applications for the registry of tenures existing at the time of the passing of this Act, but created after the passing of Act 11 of 1859, must be made within three months of the passing of this Act.”

2 THE BENGAL LAND-REVENUE SALES (AMENDMENT) ACT, 1859.
[Ben. Act 2 of 1859.]

(Secs. 3, 4.—Schedule of fees.)

Limitation.

Applications for the registry of tenures created after the passing of this Act must be made within three months of the date of the deed constituting the tenure.

Fees to be paid at rates mentioned in Schedule.

3. The Collector on the part of the Government shall be entitled to demand from applicants under sections 15 and 16, sections 40, 43 and 44, of Act 11 of 1859,¹ fees not exceeding the rates specified in the Schedule to this Act annexed, which Schedule shall be taken as part of this Act; and applications under the said sections shall not be received unless the said fees are tendered therewith.

Act to be read as part of Act 11 of 1859.

4. This Act shall be taken and read as part of the said Act 11 of 1859².

SCHEDULE OF FEES.

1. (*Filing an application under section 10 or section 11 of Act 11 of 1859 for opening a separate account for a share of an entire estate.*)—Rep. in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (4), and in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 16 (4). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II

2. For filing an application—

for a deposit of money or Government securities under section 15 of the said Act—half *per cent.* of the amount deposited;

for any interest on Government securities so deposited, drawn by the Collector—half *per cent.* of the amount drawn.

For filing an application for withdrawal of a deposit under section 16 of the said Act—half *per cent.* of the amount withdrawn.

3. For filing an application, under section 40, 43 or 44 of the said Act, for the registration of an under-tenure or farm—

if the annual rent of the under-tenure or farm do not exceed 1,000 rupees—at the rate of five *per cent.* on the rent;

if the annual rent of the under-tenure or farm exceed 1,000 rupees—at the above rate up to 1,000 rupees, and at one *per cent.* on all above that amount.

¹ The words and figures "sections 10 and 11," were repealed, in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (4), and in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 16 (4), and are omitted. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II

² The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

BENGAL ACT 6 OF 1862
(THE BENGAL RENT ACT, 1862).

CONTENTS.

PREAMBLE.

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3. Court may award to defendant compensation not exceeding twenty-five *per cent.* on amount improperly sued for.
4. Under-tenant or *raiyat* may, after tender, pay into Court, without suit brought, what he admits to be due to *samindar*, etc.
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5. Proceedings on payment into Court.
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13. Order under section 58 of Act 10 of 1859 to set aside judgment to be final, but rejection of application to set it aside appealable.
14. Fees to agents and *mukhtars*.
15. Language of Collector's judgment.
16. Attachment before judgment.
17. Execution to issue at time of decree on oral application ; afterwards on application in writing.
18. If person is arrested under section 145 of Act 10 of 1859, case to be disposed of at once.
19. Deputy Collectors' powers.
20. In what Court suits are to be instituted.
21. This Act to be read with Act 10 of 1859.

Schedule A.

Schedule B.

BENGAL ACT 6 OF 1862

(THE BENGAL RENT ACT, 1862).¹

(14th May, 1862.)

An Act to amend Act 10 of 1859² (to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal³).

Whereas it is expedient to amend Act 10 of 1859², so far as the same relates to the Provinces subject to the Government of Bengal; It is enacted as follows:—

1. (*Repeal of certain sections of Act 10 of 1859*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. In any suit for rent under Act 10 of 1859,² if it shall appear to the Court that the defendant has without reasonable or probable cause neglected or refused to pay the amount due by him, and that he has not before the institution of the suit tendered such amount to the plaintiff or his duly authorized agent, or, in case of refusal of the plaintiff or such agent to receive the amount tendered, has not deposited such amount with the Collector before the institution of the suit in manner hereinafter mentioned, it shall be lawful for the Court to award to the plaintiff, in addition to the amount decreed for rent and costs, such damages, not exceeding twenty-five *per cent.* on the amount of rent decreed, as the Court may think fit.

Preamble.

When Court may award to plaintiff additional damages not exceeding twenty-five *per cent.*

These damages, if awarded, as well as the amount of rent and costs decreed in the suit, shall carry interest at the rate of twelve *per cent. per annum* from the date of decree until

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—The Bill (without any Statement of Objects and Reasons) was published in the Calcutta Gazette, 1862, page 602; for Report of Select Committee, see *ibid.*, page 1819.

LOCAL EXTENT.—Since this Act is (see section 21, *post*, page 12) to be “read with and taken as part of” Act 10 of 1859, it applied originally, like the latter Act, to the whole of the former Province of Bengal. It has, however, been repealed by the Bengal Tenancy Act, 1886 (8 of 1886), s. 2 (2) (printed in Vol. I of this Code) in the whole of the former Province of Bengal except “the town of Calcutta, the Division of Orissa and the Scheduled Districts.”

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1886 to such Districts. Under the terms of the Notifications extending the Act of 1886 to the Jalpaiguri District, the repeal has taken effect in that District.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

The only portion of the present Presidency of Fort William in Bengal in which Ben. Act 6 of 1862 appears to be effectually in force at the present time is the Darjeeling District.

APPEALS.—As to the appointment of officers to hear appeals under this Act, see the Bengal Rent (Appeals) Act, 1867 (Ben. Act 4 of 1867), s. 5, *post*, p. 146.

² The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

³ This includes the present Presidency of Fort William in Bengal, and other territory.

⁴ Formal words in s. 2, which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

THE BENGAL

[Ben. Act 8

(Secs. 3-5.)

payment thereof, and shall be recoverable from the defendant in like manner as sums decreed to be paid by defendants under Act 10 of 1859¹ are recoverable.

Court may award to defendant compensation not exceeding twenty-five per cent.

on amount improperly used for.

3. In any suit . . . for rent under Act 10 of 1859,¹ if it shall appear to the Court that the plaintiff has instituted the suit against the defendant without reasonable or probable cause, or that the defendant before the institution of the suit duly deposited with the Collector in the manner hereinafter mentioned the full amount which the Court shall find to have been due to the plaintiff at the date of such deposit, it shall be lawful for the Court to award to the defendant by way of compensation such sum, not exceeding twenty-five *per cent.* on the whole amount claimed by the plaintiff, as the Court may think fit; and such sum, with interest at the rate of twelve *per cent.* *per annum* until payment thereof, shall be recoverable from the plaintiff in like manner as sums decreed to be paid by defendants under Act 10 of 1859¹ are recoverable.

Under-tenant or raiyat may, after tender, pay into Court, without suit brought, what he admits to be due to zamindar, etc..

4. If any under-tenant or *raiya*t shall, at the *mal culcherry* for the receipt of rents or other place where the rents of the land held or cultivated by him are usually payable, tender payment of what he shall consider to be the full amount of rent due from him at the date of the tender to the *zamindar* or other person in receipt of the rent of such land, and if the amount so tendered shall not be accepted, and a receipt in full forthwith granted, it shall be lawful for the under-tenant or *raiya*t, without any suit having been instituted against him, to deposit such amount in the Collector's Court, to the credit of the *zamindar* or other person aforesaid.

Payment into Court to have effect of payment to zamindar, or person entitled.

And such deposit shall, so far as the under-tenant or *raiya*t and all persons claiming through or under him are concerned, in all respects operate as and have the full effect of a payment then made by the under-tenant or *raiya*t of the amount deposited, to such *zamindar* or other person.

Proceedings on payment into Court.

5. The Collector shall receive such deposit on the application of the under-tenant or *raiya*t, or his agent, made in writing . . . and on the under-tenant or *raiya*t, or his agent, making a declaration in the form, or as nearly as circumstances will admit in the form, set forth in the Schedule A hereto annexed; and the Collector shall give a receipt for the same.

If the declaration shall contain any averment which the person making the declaration shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law⁴ for the time

¹ The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

² Formal words in s. 3, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

³ Words as to stamp duty, which were repealed by the Court-fees Act, 1870 (7 of 1870), are omitted.

⁴ See the Indian Penal Code (Act 45 of 1860), Chapter XI, in General Acts, 1864-67, Ed. 1909, p. 296.

BENT ACT, 1859.

(Secs. 6-8.)

being in force for the punishment of giving or fabricating false evidence.

Upon receiving the money so deposited, the Collector shall issue a notice to the person to whose credit it has been deposited in the form set forth in the Schedule B hereto annexed, and such notice shall be served by the Collector, without the payment of any fee, either upon the person to whom it is addressed or upon his *naib, gumdshta* or other agent; and in the absence of any such agent it shall be served by sticking up a copy of the same in the office of the Collector, and another copy at the *mal cutcherry* for the receipt of rents, or other place where the rents are usually paid for the land in respect of which the money has been deposited.

If the person to whom such notice is issued, or his duly authorized agent, shall appear and apply that the money in deposit be paid to him, it shall be immediately made over to him.

Payment to creditor.

6. Whenever a deposit shall have been made under the provisions of this Act, no suit shall be brought against the person making the deposit or his representatives on account of any rent which accrued due prior to the date of the deposit, unless such suit is instituted within six months from the date of the service of the notice in the fifth section of this Act mentioned.

Limitation of suit for further balances.

7. The defendant in any suit under this Act or under Act 10 of 1859¹ instituted after the passing of this Act may, if he have duly tendered the same to the plaintiff before the institution of the suit, pay into Court such sum of money as he shall consider to be due to the plaintiff without paying in any costs incurred by the plaintiff up to the time of such payment, and such sum shall be immediately paid out of Court to the plaintiff.

After suit brought, defendant may pay into Court, without costs, money tendered before.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, the plaintiff shall be charged with the whole costs of the suit incurred by the defendant; but if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall be charged with the whole costs of the suit.

Costs if plaintiff goes on with the suit.

8. The defendant in any suit under this Act or under Act 10 of 1859¹ may, without having made any tender before action brought, pay into Court such sum of money as he shall consider to be due to the plaintiff, together with the costs (to be fixed by the Court, if necessary, as of a suit originally instituted for the amount so paid into Court) incurred by the plaintiff up to the time of such payment, and such sum shall immediately be paid out of Court to the plaintiff.

If no previous tender has been made, defendant may pay into Court what he admits to be due with costs on that sum.

¹The Bengal Bent Act, 1859. It is printed in Vol. I of this Code.

² Formal words which were repealed by the Repealing and Amending Act, 1908 (19 of 1908) are omitted.

(Secs. 9, 10.)

Costs if plaintiff goes on with the suit.

If after such payment the plaintiff elects to proceed in the suit, and ultimately recovers no further sum than shall have been paid into Court, he shall be charged with all costs incurred by the defendant subsequently to such payment; but, if the plaintiff ultimately recovers a further sum than shall have been paid into Court, the defendant shall (including the sum paid into Court by him in the first instance on account of costs) be charged with costs as upon a suit originally instituted for the whole amount for which the plaintiff ultimately obtains a decree.

Survey and measurement of lands.

9. Every proprietor of an estate or tenure, or other person in receipt of the rents of an estate or tenure, has a right of making a general survey and measurement of the lands comprised in such estate or tenure, or any part thereof, unless restrained from doing so by express engagement with the occupants of the lands.

If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or *raiyat*, having received notice of the intended measurement of land held or cultivated by him, which is liable to such measurement, refuses to attend and point out such land, such person may make application¹ to the Collector, and the Collector shall thereupon proceed to inquire into the case in the manner provided for suits under Act 10 of 1859,² and shall pass a decision either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or *raiyat*.

If any under-tenant or *raiyat* after the issue of an order enjoining his attendance, neglects to attend and to point out the land, it shall not be competent to him to contest the correctness of the measurement made or any of the proceedings held in his absence.

Measurement of lands, where it cannot be ascertained who are the persons liable to pay rent.

10. If the proprietor of an estate or tenure, or other person entitled to receive the rents of an estate or tenure, is unable to measure the lands comprised in such estate or tenure or any part thereof, by reason that he cannot ascertain who are the persons liable to pay rent in respect of the lands or any part of the lands comprised therein, such proprietor or other person may petition the Collector in respect of the lands which he cannot measure as aforesaid; and the Collector thereupon, and on the necessary costs being deposited with him by the applicant, shall proceed to measure the land and to ascertain and record the names of the persons in occupation of the same; or on the special application of the proprietor or other person aforesaid, but not otherwise, shall proceed to ascertain, determine and record the tenures, and under-tenures, the rates of rent

¹ The Court-fee on an application under a 9 is five rupees—see the Court-fee Act, 1870 (7 of 1870), Sch. II, Art. 12, in General Acts, 1858-72, Ed. 1909, p. 148.

² The Bengal Rent Act, 1859. It is printed in Vol. 7 of this Code.

RENT ACT, 1862.

of 1862.

(Secs. 11-13.)

payable in respect of such lands, and the persons by whom respectively the rents are payable.

The provisions of section 67 of Act 10 of 1859¹ shall apply to any proceeding of the Collector instituted under this section.

If after due inquiry the Collector shall be unable to measure the land, or to ascertain or record the names of the persons in occupation of the same, or if he shall (in any case in which such special application shall have been made as aforesaid) be unable to ascertain who are the persons having tenures or under-tenures in such lands or any part thereof, then and in any such case he may declare the same to have lapsed to the party on whose petition he has made the inquiry.

If any person, within fifteen days after the Collector shall have recorded the name of such person as being in occupation of such land or any part thereof, or shall have declared a tenure to have lapsed, shall appear and show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms or conditions as he may think proper, alter or rescind his declaration according to the justice of the case.

Save as aforesaid, the decision of the Collector on all matters inquired into and determined by him under this or the last preceding section shall be final, unless the same shall be reversed on appeal therefrom to the Civil Court.

Such appeals shall lie to the *Zila* Judge or to the *Sadar* Court, subject to the provisions and conditions contained in sections 160 and 161 of Act 10 of 1859.¹

11. All measurements made under this Act shall be made by the standard pole of measurement of the *pargana* in which the land is situated.

Measurements to be by *pargana* pole.

12. In any suit for the recovery of an arrear of rent, the statement shall specify the name of the village and estate and of the *pargana* or other local division in which the land is situate, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

Form of plaint in suits for arrears of rent.

If the arrear is alleged to be due from any *raiyat*, the statement shall further specify the quantity of land, and, where fields have been numbered in a Government survey, the number (if it be possible to give it) of each field.

13. In all cases in which the Collector shall pass an order under section 58 of Act 10 of 1859¹ for setting aside a judgment, the order shall be final; but in all appealable cases in which the Collector shall reject the application an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable:

Order under section 58 of Act 10 of 1859 to set aside judgment, to be final, but rejection of application to set it aside appealable.

¹ The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

² Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

(Secs. 14-17.)

Provided that the appeal be preferred within the time allowed for an appeal from such final decision. . . .

Fees to
agents and
mukhtars.

14. . . . In awarding costs to either party in any suit . . . under [Act 10 of 1859¹] or under this Act, it shall be competent for the Collector to award to such party, on account of the fees of any agent or *mukhtar* employed by him, such a sum, not exceeding the rate of fee chargeable under the provisions of [section 27 of the Legal Practitioners Act, 1879,]² for pleaders in the Civil Courts, as the Collector may direct. 18 of 1879

Language of
Collector's
judgment.

15. The Collector shall pronounce judgment in all cases tried under this Act or under Act 10 of 1859³ in open Court.

The judgment shall be written in the vernacular language of the Collector, and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced:

Provided that, if the vernacular language of the Collector be not English, and the Collector be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Attachment
before
judgment.

16. The provisions relating to attachment before judgment contained in sections 81 to 90, both inclusive, of Act 8 of 1859⁴ (*for simplifying the Procedure of the Courts of the Civil Judicature not established by Royal Charter*) are hereby extended to all suits . . . under this Act or Act 10 of 1859.⁵

Execution
to issue at
time of
decree on
oral
application;
afterwards
on application
in writing.

17. Process of execution in any suit . . . under this Act or under Act 10 of 1859⁶ may be issued against either the persons or the property of a judgment-debtor, but process shall not be issued simultaneously against both person and property.

It may be issued on the oral application of the judgment-creditor, his agent or *mukhtar*, made at the time the judgment is pronounced or thereafter upon the written application of the judgment-creditor, his agent or *mukhtar* presented to the Court by which the judgment was given.

¹ Words as to stamp duty, which were repealed by the Court-fees Act, 1870 (7 of 1870), are omitted.

² A repealing clause, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

³ Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

⁴ The words and figures "Act 10 of 1859" were substituted for the words "the said Act" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

⁵ This reference was substituted for the reference "section 7 of Act 1 of 1846" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code. Act 18 of 1879 is printed in the General Acts, 1879-86, Ed. 1903, p. 19.

⁶ The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

⁷ Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877. The present Code of Civil Procedure is Act 5 of 1908, and this reference should now be taken to be made to *cf.* 80 and 104 (*g*) of, and rules 5 to 11 in Order XXXVIII and rule 1 (*g*) in Order XLII in *Rehmatulla Etc.*, the latter Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

20. 1859.

(1859, 15, 1859)

Process of execution against the person or moveable property of a debtor shall be in the Form E¹ or the Form F² contained in the Schedule to Act 10 of 1859³, or in a form as nearly resembling those forms as the circumstances of the case may admit.

18. If any person shall be arrested under section 145 of the said Act 10 of 1859⁴, he shall be brought before the Collector with all convenient speed, and the Collector shall proceed forthwith to try the case.

as provided in section 145 of Act 10 of 1859, case to be disposed of at once.

If the case cannot be at once heard and determined, the Collector may, if he think fit, require the person arrested to give security for his appearance whenever the same is required.

In default of such security the person arrested shall be committed to the civil jail till the case is heard.

19. All the powers vested in the Collector by any of the sections of this Act or of Act 10 of 1859⁵ may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference by any Deputy Collector placed in charge of any sub-division of a district, or who is specially authorized by Government to receive such cases; and all applications and reports allowed or required by the said Act 10 of 1859⁶ or by this Act to be made to the Collector may be made

Deputy Collectors' powers.

¹ These forms have not been reprinted with Act 10 of 1859, because they were repealed by the Repealing and Amending Act, 1891 (12 of 1891). The present reference was, however, saved by section 8 of that Act. The forms are as follow:—

FORM E.

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff,
C. D., Defendant.

To the Nazir of the Court of the Collector of
Whereas the said C. D. was directed by a decree of this Court, under date the day of 18, to pay to A. B. the sum of and for costs of suit amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all convenient speed before this Court to be dealt with according to law

FORM F.

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff,
C. D., Defendant.

To the Nazir of the Court of the Collector of
Whereas C. D. was directed by a decree of this Court, under date the day of 18, to pay A. B. the sum of and for costs of suit, amounting to, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of, and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as is described in the list annexed, and (if no list is furnished, these words to be omitted) shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D. on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.
¹ The Bengal Bent Act, 1859. It is printed in Vol. I of this Code.
² Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908).

(Secs. 20, 21.—Schedule A.)

to any Deputy Collector having such local jurisdiction or such special authority as aforesaid.

In what Court
suits are to be
instituted.

20. Suits under this Act, or under Act 10 of 1859¹ shall be preferred in the revenue office of the district, or, when a sub-division of a district has been placed under the jurisdiction of a Deputy Collector, in the revenue office of the sub-division in which the cause of action shall have arisen, or, when the cause of action shall have arisen within the limits of the local jurisdiction of any Deputy Collector not in charge of a sub-division, but, who has been specially authorized by Government to receive such suits, then in the office of such last-mentioned Deputy Collector:

Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector.

If the lands comprised in any *taluk*, farm or other tenure, or any lands held under one lease or engagement, at or one entire rent, in respect of which arrears of rent may be due, are situated in more than one district or sub-division, or within the local limits of the jurisdiction of more than one Deputy Collector so specially authorized as aforesaid, the district or sub-division or local limits in which the greater part of such lands is situate shall be held to be the district or sub-division or local limits in which the cause of action has arisen; and, if any question shall be raised respecting the district or sub-division or local limits within which the greater part of the lands is situate, the Board of Revenue² or, if all the lands be situate in one district, the Collector of the district, shall decide the question; and such decision shall be conclusive on the point of jurisdiction.

This Act to
be read with
Act 10 of
1859.

21. This Act shall be read with, and taken as part of, Act 10 of 1859.¹ * * *

†SCHEDULE A.

I, A. B., of, etc., do solemnly declare that I did personally (or by my agent C. D.) on the day of tender payment to E. F. at his *mâl cutcherry* (or at), the place where the rent of the lands at held or cultivated by me under or from the said E. F. are usually payable, of the sum of * rupees as and for the whole amount due from me in respect of the rent of the said lands from the

† If this declaration is made by an agent, it must be altered accordingly.

¹ The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

² See now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918), in Vol. III of this Code.

³ Formal words which were repealed by the Repealing and Amending Act, 1900 (1 of 1900) are omitted.

⁴ Sch. A is referred to in s. 6, ante, p. 6.

⁵ The word "Company's," which was repealed by the Repealing and Amending Act, 1900 (1 of 1900), is omitted.

of 1902.

(Schedule B.)

month of ^{to the month of} ^{a.}
 I further declare that the said *E. F.* refused to accept the said
 sum so tendered (or to give me a receipt in full forthwith for
 the same). And I do declare that
 to the best of my belief the sum of * * * rupees
 so tendered, and which I now desire to
 pay into Court, is the full amount which I owe the said
E. F. on account of the rent of the said lands from the
 month of ^{to the month of} ^{both}
 inclusive, and that I owe the said *E. F.* no further sum
 on account of the rent of the said lands.

† SCHEDULE B. †

Court of the Collector (or Deputy Collector) of

Dated the ^{day of} 18

To *E. F.*, of, etc.

With reference to the within declaration you are hereby
 informed that the sum of * * * rupees
 therein mentioned is now in deposit in this Court, and
 that the above sum will be paid to you or to your duly
 authorized agent on application. And take notice that, if
 you have any further claim or demand whatsoever to make
 against the said *A. B.* in respect of the rent of the said lands,
 you must institute a suit in Court for the establishment of
 such claim or demand within six calendar months from this
 date, otherwise your claim will be for ever barred.

† This is to be by endorsement on a copy of the declaration under Schedule A made by the
 person paying the money into Court.

¹ The word "Company's", which was repealed by the Repealing and Amending Act, 1908 (1
 of 1908), is omitted.

² Sch. B is referred to in s. 5, ante, p. 6.

BENGAL ACT 7 OF 1862

(THE BENGAL LAND-REVENUE RESUMPTION ACT, 1862).¹

(7th May, 1862.)

An Act to repeal section 30 of Regulation 2, 1819² (for modifying the provisions contained in the existing Regulations regarding the resumption of the revenue of lands held free of assessment under illegal or invalid tenures, and for defining the right of Government to the revenue of lands not included within the limits of estates for which a settlement has been made).

Whereas by section 30 of Regulation 2, 1819,³ it is enacted that certain suits preferred in a Court of Judicature regarding lands held, or claimed to be held, free of assessment, shall be referred for investigation to the Collector, and that similar suits may be preferred in the first instance to the Collector; and whereas such reference of suits is unnecessary and causes inconvenience and delay in their decision, and it is advisable that such suits should be preferred and disposed of exclusively in the ordinary Courts of Civil Judicature: It is enacted as follows:—

Preamble.

1. [*Repeal of s. 30 of the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819)*]. Rep. by the Repealing Act, 1873 (12 of 1873).

2. All suits preferred by proprietors, farmers or *tahk-dars* to resume the revenue of any land held free of assessment, as well as all suits preferred by individuals claiming to hold land exempt from the payment of revenue, shall be instituted, heard and determined in and by the Courts of Civil Judicature, like ordinary civil suits, and under the rules and subject to all the provisions contained in Act 8 of 1859 (for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter),⁴ and not otherwise.

Suits for resumption of land held free of assessment and claims to hold land exempt from revenue to be tried in Civil Courts.

3, 4. [*Application of Act to pending suits; saving of proceedings had under s. 30 of the Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819 (2 of 1819) before passing of Act*]. Rep. by the Repealing Act, 1874 (16 of 1874).

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LOCAL EXTENT.—Since this Act contains no "local extent" clause, it must be taken to extend to the whole of the former Province of Bengal; but its application is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² The Bengal Land-Revenue Assessment (Resumed Lands) Regulation, 1819. It is printed in Vol. I of this Code.

³ Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877. The present Code of Civil Procedure is Act 5 of 1908, and this reference should now be taken to be made to the latter Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

BENGAL ACT 4 OF 1864

(THE BENGAL DISTRICTS ACT, 1864).¹

(20th April, 1864.)

An Act to amend Act 21 of 1836.²

Whereas it is expedient to amend Act 21 of 1836³; It is **Preamble.**
enacted as follows :—

It shall be lawful for the Lieutenant-Governor of Bengal⁴ **Lieutenant-Governor may alter limits of existing *zilas*.**
from time to time to alter⁵ the limits of existing *zilas* in
any part of the provinces subject to the control of the said
Lieutenant-Governor.⁶

¹ **SHORT TITLE.**—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LOCAL EXTENT.—This Act applies to the whole of the former Province of Bengal—see the enacting clause; but its application is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² The Bengal Districts Act, 1836. It is printed in Vol. I of this Code.

Act 10 of 1859 gives power to create new districts. Power to alter the limits of districts is given by the present Act, and power to alter the limit of Collectorship is given by the Bengal Land-revenue (Assistant Collectors) Regulation, 1821 (4 of 1821), s. 8 (1), in Vol. I of this Code. Power to transfer districts from one Division to another is given by the Bengal Revenue Commissioners Regulation, 1829 (1 of 1829), s. 2, in Vol. I of this Code.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ For a list of orders made under this Act for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

BENGAL ACT 5 OF 1864

(THE CANALS ACT, 1864).

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PREAMBLE.

Section.

1. Interpretation.
2. What navigable channels may be rendered subject to provisions of Act.
3. By whom navigable channels may be made.
Mode of obtaining land for the purpose.
4. Bar of suit against Government.
5. Tolls to be paid on lines of navigation subject to Act.
Proviso.
6. Lieutenant-Governor may fix and alter rates of tolls.
7. Publication of rates of toll at every toll-house.
8. Lieutenant-Governor to appoint persons to collect tolls, who may farm collection.
9. Payment of tolls how enforced.
10. Penalty for evasion of toll.
11. Rules relating to lines of navigation.
12. Publication of such rules.
13. Appointment of supervisor with power to remove obstruction.
14. Mode of exercising such power.
15. Supervisor may forbid construction of bandels, etc.
16. Penalty for causing obstruction to line of navigation.
17. (*Repealed.*)
18. Offences by whom punishable.
19. (*Repealed.*)
20. Short title.

SCHEDULE. (*Repealed.*)

BENGAL ACT 5 OF 1864

(THE CANALS ACT, 1864).¹

(8th June, 1864.)

An Act to amend and consolidate the law relating to the collection of tolls on canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the Provinces under the control of the Lieutenant-Governor of Bengal.²

Whereas it is expedient to amend and consolidate the law relating to the collection of tolls on . . . canals and lines of navigation . . . , and to authorize the collection of tolls on such other lines of navigation as may hereafter be rendered subject to the provisions of this Act, and to provide for the construction and improvement of lines of navigation; It is enacted as follows:—

Preamble.

1. The following words shall have the several meanings hereby assigned to them, unless where a contrary intention shall appear from the context, that is to say:—

Interpretation.

the word “vessel” shall include any ship, barge, boat, raft, timber, bamboos or floating materials, propelled in any manner:

Vessel.

the words “line of navigation” shall mean any navigable channel subject to the provisions of this Act:

Line of navigation.

¹ LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal (see the title), and applies to navigable channels notified under s. 2 or authorized under s. 8.

For a list of channels to which the Act has been so applied, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

OTHER ENACTMENTS.—As to canals, see also the following enactments:—

the Bengal Embankment Act, 1855 (32 of 1855), in Vol. I of this Code;
the Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), *post*, p. 127;
the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873), *post*, p. 286;
the Bengal Irrigation Act, 1876 (Ben. 3 of 1876), *post*, p. 513; and
the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), *post*, p. 685.

² The Bengal Embankment Act, 1882 (Ben. Act 2 of 1882) does not apply to any embankment, land or watercourse which is under the operation of the present Act—see s. 91 of the Act of 1882, *post*, p. 661.

COLLECTION OF CANAL TOLLS BY MUNICIPAL COMMISSIONERS.—For power to appoint the Municipal Commissioners to collect tolls, under section 8 of the present Act, on navigable channels passing through a Municipality, see the Bengal Municipal Act, 1884, s. 171, *post*, p. 767.

As to the crediting of profits to the Municipal Fund, and as to the exercise by the Commis- sioners of the powers vested by the present Act in the Collector, see *ibid.* As to the cancellation of orders made under the said s. 171, see *ibid.*, s. 173, p. 767.

³ This includes the present Presidency of Fort William in Bengal and other territory.

⁴ The word “the” in the preamble, which was repealed by the Repealing and Amending Act, 1903 (1 of 1903), is omitted. That Act is now known as the Amending Act, 1903—*vide* Act 16 of 1914, *Sec. II*.

⁵ The words “specified in the Regulations and Acts in the Schedule to this Act annexed,” which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

(Secs. 2-5.)

Channel.	the word "channel" shall include any river, canal, <i>khal</i> , <i>nala</i> or waterway, whether natural or artificial:
Person.	the word "person" shall include any company, association or body of persons, whether incorporated or not. (<i>Number and gender</i>). <i>Rep. by the Repealing and Amending Act, 1903 (1 of 1903). See now the Bengal General Clauses Act, 1899, s. 14, in Vol. III of this Code. Act I of 1903 is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.</i>
What navigable channels may be rendered subject to provisions of Act.	2. It shall be lawful for the Lieutenant-Governor of Bengal, ¹ from time to time, by notification ² to that effect published in the Calcutta Gazette, to declare that the provisions of this Act shall apply to any navigable channel specified in such notification; and from and after such publication the provisions of this Act shall apply to, and be in force as regards, such navigable channel.
By whom navigable channels may be made.	3. It shall be lawful for the Lieutenant-Governor of Bengal ¹ from time to time, to authorize ⁴ any person to make and open any navigable channel, or to clear and deepen any navigable channel, and to stop any watercourse, or make any tracking path, or do any other act necessary for the making or improvement of any such channel; and any navigable channel made under this section shall be rendered subject to the provisions of this Act in the manner prescribed in the last preceding section.
Mode of obtaining land for the purpose.	The Government of Bengal ¹ may take possession ⁵ as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of ^{any} Act in force for the taking possession of land for public purposes ⁶ .
Bar of suit against Government.	4. No action or suit shall be brought against the Secretary of State for India in Council, or the Government, in respect of any injury or damage caused by, or resulting from, any act done under the last preceding section.
Tolls to be paid on lines of navigation subject to Act.	5. Tolls, at such rates as shall be fixed in manner hereinafter mentioned, shall be paid in respect of all vessels entering upon, or passing along, any of the lines of navigation subject to the provisions of this Act:

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of notifications issued under section 2 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ The rest of section 2, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

⁴ For an order made under section 3, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ The words and figures "Act 6 of 1867 (for the acquisition of land for public purposes) or of" in s. 8, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁶ The word "other," in s. 8, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

⁷ The words "that may now or hereafter be," in s. 8, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁸ See now the Land Acquisition Act, 1894 (1 of 1894), printed in the General Acts, 1867-97, Bd 1909, p. 868.

[REDACTED]

(Secs. 6-9.)

Provided that such tolls shall be payable only so long as such line of navigation shall be open. Proviso.

6. The Lieutenant-Governor of Bengal¹ may fix, and from time to time alter, the rates at which such tolls² shall be levied: Lieutenant-Governor may fix and alter rates of tolls.

Provided that no toll shall be levied, and no alteration of any rate of toll shall have effect, until notice shall have been published in the Calcutta Gazette, for such period as the said Lieutenant-Governor¹ may fix, of the intention to levy or alter such tolls, and of the rate or place at which such toll is to be levied.

7. Notification of the rates of toll and of the places of collection shall be at all times exhibited to public view at every toll-house where toll is levied under this Act, in the English, Urdu and Bengali languages. Publication of rates of toll at every toll-house.

8. The Lieutenant-Governor of Bengal¹ shall appoint³ such persons⁴ as he may think fit to collect tolls under this Act, and it shall be lawful for any person, so appointed to farm⁵ the collection of tolls to any other person, with the sanction of the Government of Bengal¹ or to employ any other person in such collection. Lieutenant-Governor to appoint persons to collect tolls, who may farm collection.

The person to whom the collection of tolls may be farmed out, or who may be employed in the collection of them, shall have power to collect and be authorized to receive them, in the like manner as any person appointed as aforesaid.

9. If any toll due under the provisions of this Act in respect of any vessel shall not be paid on demand to the person authorized to collect the same, it shall be lawful for such person to seize such vessel, and any furniture thereof, and to detain the same; Payment of tolls how enforced.

and such person shall, within twenty-four hours of such seizure and detention, report the same to the nearest Collector⁶ or Deputy Collector of the district in which the seizure has been made, or other public officer duly authorized by Government in that behalf;

and on receipt of this report the Collector⁷, Deputy Collector or other officer as aforesaid shall publish a notice appointing a day for the sale of the said vessel and any furniture thereof.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Odisha and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of orders made under s. 6, fixing rates of tolls for places in Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ For an order prescribing license-fees in lieu of tolls, see ib.

⁴ For an order exempting certain vessels from toll or demurrage, see ib.

⁵ For a list of appointments made under s. 8 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ As to the collection of tolls by Municipal Commissioners, see footnote on p. 31, ante.

⁷ As to the recovery of sums due from a farmer or his surety, see the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), s. 3 (b), Sch. I, in Vol. III of this Code.

⁸ As to the application of s. 9 to the recovery of the expense of removing obstructions, see s. 14, last para., post, p. 35.

⁹ As to the exercise of powers of Collector by Municipal Commissioners, see footnote on p. 31, ante.

(Secs. 10, 11.)

The sale shall be held at some period not less than fifteen days from the date of the publication of notice of sale; and if the toll and also any expenses occasioned by non-payment be not paid, or sufficient cause for non-payment be not shown, at or before the time of sale to the Collector¹, Deputy Collector or other officer as aforesaid, such officer shall sell the vessel and furniture seized, or so much thereof as may be necessary to pay the toll and also any expenses occasioned by non-payment.

So much of the property seized as may not have been sold, and so much of the sale-proceeds as may be in excess of the sum necessary for satisfying the toll and for defraying the expenses occasioned by non-payment, shall be returned to the person in charge of the vessel.

Penalty for evasion of toll.

10. Any person who shall refuse or evade, or attempt to evade, any toll due under this Act shall be punished, on conviction before a Magistrate, with a fine which may extend to fifty rupees, or with simple imprisonment in lieu of fine which may extend to one month.

Rules relating to lines of navigation.

11. It shall be lawful for the Lieutenant-Governor of Bengal² from time to time to make rules³ not repugnant to any law in force, and to repeal, alter and amend the same, for the management of any line of navigation subject to this Act, and for regulating the conduct of persons employed for any of the purposes of this Act; and the Lieutenant-Governor⁴ may affix fines as penalties for the infringement of such rules not exceeding fifty rupees for any one infringement, or five rupees a day for any continuing infringement.

Such rules may contain directions for any of the following amongst other matters:—

- for determining the tonnage of vessels and their measurement;
- for fixing the number and the width of vessels to be allowed to pass into, or out of, or through, any line of navigation at one time or abreast;
- for determining the length of time during which vessels may remain stationary on any line of navigation and the amount of demurrage to be paid by vessels remaining stationary beyond such time;
- for regulating the mode in which and the places at which tolls are to be levied under this Act;
- for the removal of sunken vessels and obstructions; and
- for the storing and disposal of the cargo of vessels seized under this Act.

¹ As to the exercise of powers of Collector by Municipal Commissioners, see footnote on p. 21, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ For a list of rules made under sections 11 and 12 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

THE CANALS ACT, 1864.

(Secs. 12-15.)

12. Rules shall not be passed until the same shall have been published in the Calcutta Gazette for a period of six weeks; and after that time the rules¹ shall be published as passed, with such alterations (if any) as to the Lieutenant-Governor of Bengal² shall seem fit.

Publication
of such rules.

The rules so published as passed shall not have effect until the expiration of two weeks after such last publication; and all rules so published shall, until the same be repealed or altered, be of like effect as if they were inserted in this Act.

Copies of all rules, in the English, Urdu and Bengali languages, shall be exhibited to public view at every place where toll is collected.

13. It shall be lawful for the Government of Bengal³ to appoint⁴ any person to be the supervisor of any line of navigation subject to the provisions of this Act; and such person shall be empowered to cut down and remove any tree which may have fallen or may be likely to fall into such line of navigation, and to remove any sunken vessel, and to prevent or remove any other nuisance or obstruction to navigation, of whatever description, whenever he may think it necessary.

Appointment
of supervisor
with power to
remove
obstruction.

14. Whenever such supervisor shall consider that the cutting down and removal of any tree or the removal of any other obstruction is necessary he may in cases of emergency at once remove the same, and may for that purpose enter on any private property.

Mode of exer-
cising such
power.

In cases not of an emergent nature, he shall serve a notice in writing on the owner or occupier of such private property, directing him to remove the same within a reasonable time.

If the owner or occupier cannot be found, notice may be served by notification to be affixed in some conspicuous place in the nearest village.

If the owner or occupier shall not remove the obstruction within the time given in the notice, the supervisor may proceed to remove it himself and may for that purpose enter on any private property.

Payment of all expenses of such removal may be enforced by the sale of the thing removed in the manner provided for the recovery of tolls in section 9 of this Act.

15. Whenever in the opinion of such supervisor the construction of any bandel or other contrivance for fishing, or for any other purpose, in any line of navigation is likely to cause obstruction to the free and safe transit of such line of navigation, he may, by a notice in writing to be served on the owner or person in charge of such bandel or other contrivance, or (if such owner or other person cannot be found) to be affixed

Supervisor
may forbid
construction
of bandels,
etc.

¹ For a list of rules, made under sections 11 and 12, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ For a list of orders made under section 13, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Secs. 16-20.—Schedule).

at some conspicuous place in the nearest village, forbid the construction of such bandel or other contrivance.

Penalty for causing obstruction to line of navigation.

16. Any person who shall wilfully cause or shall aid in causing any obstruction to any line of navigation, or any damage to the banks or works of such line of navigation, or who shall wilfully omit to remove such obstruction after being lawfully required so to do, shall be punished on conviction before a Magistrate with simple imprisonment which may extend to one month, or with fine which may extend to fifty rupees, or with both, and shall also be liable to pay such fine as may be sufficient to meet all reasonable expenses incurred in abating or removing such obstruction, or in repairing such damage.

17. (*Recovery of fines*). Rep. by the *Repealing and Amending Act, 1903* (1 of 1903), now known as the *Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

Offences by whom punishable.

18. If any person shall be guilty of an offence against the provisions of this Act on any line of navigation subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such line of navigation, or adjoining either side of that part of the line of navigation in which such offence shall be committed;

and, such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner, and to the same extent, as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits;

and, in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

19. (*Indemnity for certain acts done heretofore in the collection of tolls, etc.*). Rep. by the *Repealing Act, 1873* (12 of 1873).

Short title.

20. This Act may be cited as the Canals Act, 1864.

SCHEDULE OF REGULATIONS AND ACTS REPEALED.

Rep. by the *Repealing and Amending Act, 1903* (1 of 1903), now known as the *Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

BENGAL ACT 7 OF 1864

(THE SALT ACT, 1864).

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PREAMBLE.

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7. Board of Revenue to grant licenses on certain conditions.
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11. Lieutenant-Governor may prescribe rules and impose penalties. Proviso.
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13. *Rawanas* by whom and how granted.
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23. Inspection of salt-works by police-officers.
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25. Salt seized may be weighed by police-officer.
26. Persons arrested to be forthwith taken before Magistrate and detained or admitted to bail.
27. Magistrate may issue search-warrant on application.
28. Rules regarding entry of house by force.
29. Magistrate may summon persons and adjudge confiscations.
30. Rules of Criminal Procedure Code applied.
31. Seizures within Calcutta to be determined on by Justice of the Peace.
32. On confiscation, salt to vest in Her Majesty.
33. Penalty for vexatious seizures and arrests.
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- 35, 36. (*Repealed.*)
37. Limitation as to charge.
38. Bar of *certiorari* as to Justices' proceedings. Quashing judgments.
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40. Disposal of proceeds of seizure and fines.
41. Limitation of suits, etc.
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SCHEDULE. (*Repealed.*)

APPENDIX. Note showing the extent to which the Indian Salt Act, 1882, is in force in Bengal.

BENGAL ACT 7 OF 1864

(THE SALT ACT, 1864)¹.

(15th June, 1864.)

An Act to amend and consolidate the laws relating to the manufacture, possession, transport and sale of salt in the Provinces under the control of the Lieutenant-Governor of Bengal².

Whereas it is expedient to amend and consolidate the laws relating to the manufacture, possession, transport and sale of salt in the Provinces under the control of the Lieutenant-Governor of Bengal³; It is enacted as follows:—

1. This Act may be cited as the Salt Act, 1864.

2. (*Enactments repealed*). *Rep. by the Repealing Act, 1873* (12 of 1873).

3. The following words shall have the several meanings hereby assigned to them, unless where a contrary intention shall appear from the context (that is to say):—

- the word "salt" shall include every saline substance and preparation used or intended to be used with food;
- the word "manufacture" shall include the preparation or collection of salt;
- the words "salt-work" shall mean any place used or intended to be used for the manufacture of salt;
- the words "Board of Revenue" shall mean the Board of Revenue for the Lower Provinces of the Presidency of Fort William in Bengal;

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1864, p. 202.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see the title and preamble.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2) printed in Vol. I of this Code.

COMMENCEMENT.—The Act came into operation on the 1st July, 1865—see Notification, dated the 16th May, 1865 (in Calcutta Gazette of 24th idem, p. 945), issued under s. 42 of the Act.

SUPPRESSION.—The Act is to a great extent superseded by the Indian Salt Act, 1882 (12 of 1882), in the several areas (see Appendix, post, p. 37) in which the latter Act is in force.

CUSTOMS DUTY.—As to customs duty on imports of salt by sea, and imports by land from foreign territory, see the Indian Tariff Act, 1894 (8 of 1894), ss. 5, 6, and Sch. III, in General Acts, 1887-97, Ed. 1908, pp. 884, 885, 891.

As to customs duty on salt imported coastwise, see the Sea Customs Act, 1878 (8 of 1878), s. 20 (b), in General Acts, 1868-78, Ed. 1909, p. 626, and the Indian Tariff Act, 1894, ss. 2 (d), 7, in *ibid*, 1887-97, Ed. 1909, pp. 884, 886.

No drawback is allowed on re-exportation of salt—see the Sea Customs Act, 1878, s. 50 (d), *ibid*, 1868-78, Ed. 1909, p. 638.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ The definition of "Magistrate," which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted. The Bengal Salt Act, 1878 (Ben. Act 1 of 1878), s. 1, post, p. 227, declares that all powers which may, under the present Act, be exercised by a Magistrate, may be exercised by a Magistrate of the first or second class; and s. 2 of the Act of 1878 declares that all offences punishable under the present Act may be inquired into and tried by a Magistrate of the first or second class. Act 1 of 1908 is now known as the Amending Act, 1908—vide Act 10 of 1914, ch. II.

(Secs. 4-7.)

"Police-officer."	the words "police-officer" shall include all village-police-officers;
"Seer."	the word "seer" shall mean a weight of eighty <i>tolas</i> ;
"Maund."	the word "maund" shall mean a weight of forty <i>seers</i> ;
Salt in possession of servant or agent.	when salt is in the possession of a person's servant or agent on his account, it is in that person's possession within the meaning of this Act;
Causing or procuring act to be done, punishable in same manner as doing act.	where the doing of any act is made punishable by this Act, or by any of the rules ¹ to be made in pursuance thereof, with any penalty, the causing or procuring such act to be done shall be punishable in like manner;
"Rawana."	the word "rawana" shall mean a written or printed permission duly issued under the provisions of this Act, to possess or transport salt;

.

4. Within the provinces under the control of the Lieutenant-Governor of Bengal² it shall not be lawful for any person who is not duly licensed in the manner hereinafter provided to manufacture salt.

5. Whoever, without a license duly obtained under this Act, shall manufacture, or attempt to manufacture, salt shall be punished with fine, which may extend to five hundred rupees, or with simple imprisonment for a term which may extend to six months, or with both.

The use of each salt-work in such unlicensed manufacture shall be a separate offence within the meaning of this section; and each fire or fire-place, or place for collecting salt in any mode, used or intended to be used in such manufacture, shall be deemed a separate salt-work.

The continuing, after conviction and sentence, of the offence mentioned in the introductory part of this section, shall be considered as amounting to the commission of such offence and shall be punishable in the same way as such offence.

6. All materials and implements used or intended to be used in manufacturing salt without a license, and all salt so manufactured, shall be confiscated.

7. The Board of Revenue shall grant licences to manufacture salt in such places in the said provinces and to such persons as they shall think fit:

Provided that no person shall obtain a license to manufacture salt unless he shall have complied with such terms and

¹ For power to make rules and to prescribe penalties for breach thereof, see s. 11, post, p. 31.

² The clauses as to number and gender, which were repealed by the Repealing and Amending Act, 1904 (1 of 1904), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code.

³ This includes the present Presidency of Fort William in Bengal and other territory.

of 1864.]

(Secs. 8-15.)

conditions for securing the payment of the duty hereinafter mentioned as may be required by the said Board.

8. Every proprietor, tenant, under-tenant and cultivator who owns or holds land on which there shall be any salt-work not licensed under the provisions of this Act,

Proprietor and others to give notice to police of unlicensed salt-work on their lands.

and every *naib, gumashia, tahsildar* or other agent employed by the Government or the Court of Wards or by any private proprietor on such land,

shall, within ten days after the existence of any such salt-work shall have come to his knowledge, give written notice of the same to a police-officer.

If any person bound to give notice under this section shall wilfully omit or delay to give the same, he shall for every such offence be liable to a fine not exceeding five hundred rupees for each salt-work.

9. (*Rate of duty on manufacture of salt*). Rep. by the *Indian Salt Act, 1882 (12 of 1882)*.

10. Every licensed manufacturer of salt shall, before he begins to manufacture, provide a proper and secure warehouse, to be approved by the Board of Revenue, for the purpose of depositing and securing therein the salt to be manufactured; and all salt manufactured by him shall in the first instance be deposited in such warehouse.

Licensed manufacturer to provide proper warehouse.

11. The Lieutenant-Governor of Bengal¹ shall from time to time prescribe rules, which shall be notified in the Calcutta Gazette, for regulating the manufacture, deposit and transport of salt, and for securing the payment of the duty thereon; and shall from time to time fix penalties for infringements of such rules:

Lieutenant-Governor may prescribe rules and impose penalties.

Provided that no rule shall be repugnant to any of the provisions of this Act, or to any law in force, and that no penalty shall exceed five hundred rupees.

Proviso.

12. Within such limits as the Lieutenant-Governor of Bengal² shall define, by notification in the Calcutta Gazette, the possession and transport of all salt shall be regulated in manner hereinafter provided.

Regulation of possession and transport of salt.

13. The Board of Revenue shall grant *rawanas* for all salt possessed or transported within the limits so fixed, in accordance with such rules as the Government shall from time to time make in this behalf, and on payment of such fee as may be fixed in such rules.

Rawanas by whom and how granted.

14. No *rawana* shall be granted unless the full amount of duty on the quantity of salt, to be specified in such *rawana*, shall have been paid.

Rawanas not to be granted without payment of duty.

15. It shall not be lawful to possess or transport more salt than five *seers*, unless the same shall be specified in a *rawana* granted under section 13 of this Act:

Limitation of possession or transport of salt.

¹ This reference is to s. 9, which has since been repealed by the Indian Salt Act, 1882 (12 of 1882).

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, Items 1 and 2, in Vol. I of this Code.

(Secs. 16-19.)

Proviso.

Provided that this section shall not apply to salt imported by sea and warehoused under Act 6 of 1863 (*the Consolidated Customs Act*),¹ or to salt deposited by a manufacturer in an approved warehouse under section 10 of this Act.

Penalties for possessing or transporting salt without *rawana*.

16. Any salt, exceeding five *seers* in quantity, which may be found within such limits as aforesaid, not specified in a *raw na*, shall be held to be contraband, and as such shall be seized and confiscated.

The vessels, packages and covering in which such salt shall be found, and any animals or conveyances used in carrying it, shall also be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt shall be liable to a fine not exceeding five rupees for every *maund* of salt so seized and confiscated.

All persons found in gangs or companies transporting, or attempting to transport, such salt, when the whole quantity exceeds ten *seers*, shall be liable to the like penalty, and each one of the offenders shall be liable to the whole fine.

In the cases aforesaid the fine shall be at the rate of five rupees per *maund*, according to the quantity of salt seized, whether more or less than one *maund*.²

Punishment for transporting salt in excess of quantity specified in *rawana*.

17. If any person shall possess, transport or attempt to transport, within the said limits, under a *rawana* a greater quantity of salt than is specified in such *rawana*, the excess, as well as the quantity so specified, shall, if such excess be found on weighment to exceed two-and-a-half *per centum* on the quantity so specified, be held to be contraband, and as such shall be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt shall be liable to a fine of five rupees for every *maund* of salt in excess of the quantity so specified.³

Confiscation of salt conveyed otherwise than as allowed.

18. Salt being conveyed by a route or to a place other than that specified in such *rawana* shall be seized and confiscated.

Any person possessing or transporting, or attempting to transport, such salt shall be liable to the penalty prescribed in section 16 of this Act.

Salt transported beyond limits not to be again brought within them without a special *rawana*.

19. Salt which may have been transported beyond the said limits shall not again be brought within those limits except under a special *rawana* granted for the purpose under the authority of the Board of Revenue.

Any salt brought within such limits without such special *rawana* shall be seized and confiscated; and the persons in whose possession it may be found shall be liable to the penalty prescribed in section 16 of this Act, for the possession of contraband salt.

¹ Act 6 of 1863 has been repealed and re enacted by the Sea Customs Act, 1878 (§ of 1878) and this reference should now be read as if made to the latter Act—see s. 2 thereof, in General Acts, 1869-78, Ed. 1907, p. 884.

² As to weighment of salt under s. 16 or s. 17, see s. 25, sect. v. 22.

of 1864.]

(Secs. 20-27.)

It shall be competent to the said Board to withhold or grant such *rawana*.

20. All persons possessed of salt specified in a *rawana*, who may sell, lose or otherwise dispose of any portion of such salt within the said limits, shall certify on the back of such *rawana* the quantity sold, lost or disposed of by them.

Salt sold or lost within limits to be certified on back of *rawana*.
Penalty for omitting to certify sale or loss.

21. Whoever within the said limits sells, loses or disposes of salt, and wilfully or negligently omits to certify such sale, loss or disposal thereof in the manner above described, shall be liable to a fine not exceeding five rupees for every *maund* so sold, lost or disposed of by him; and any salt in his possession not exceeding twice the quantity sold, lost or disposed of, may be seized by an officer in charge of the police-station as security for the payment of such fine.

22. If all the salt specified in a *rawana* be disposed of within the said limits, such *rawana* shall be delivered up to the officer in charge of the police-station within which the last parcel of the salt shall have been disposed of.

If whole quantity be sold within limits or whole or part carried beyond, *rawana* to be delivered up.

If any part of the salt specified in such *rawana* be carried beyond the said limits, such *rawana* shall in that case be delivered up to the officer in charge of the last police-station which such salt may have to pass before being carried beyond the said limits.

23. Any police-officer may enter and inspect, at any time by day or night, any salt-work, or any warehouse or premises in which salt is stored.

Inspection of salt-works by police-officers.

24. Any police-officer may arrest any person carrying or in possession of contraband salt, and may seize the vessels, packages and covering, and any animals or conveyances used in carrying such salt.

Arrest of persons carrying salt liable to confiscation.

25. For the purposes of the preceding section and of sections 16 and 17 of the Act, it shall be lawful for the officer in charge of the police-station within which the salt shall be found to cause the same to be weighed.

Salt seized may be weighed by police-officer.

26. Any person arrested on the ground that he has been guilty of an offence under this Act shall forthwith be taken before a Magistrate or Justice of the Peace, who may, if he see reasonable cause, order such person to be detained in custody until the case shall have been disposed of in the manner hereinafter provided:

Persons arrested to be forthwith taken before Magistrate and detained or admitted to bail.

Provided that any person so detained shall be liberated on giving recognizance or security to appear at such time and place as shall be appointed for his appearance.

27. It shall be lawful for the Magistrate of a district, or division of a district, on application by a police-officer, stating his belief that salt is manufactured in any place within such district or division contrary to the provisions of this Act, or that salt not specified in a *rawana* is kept or concealed in any house, boat or place in such district or division, to issue a warrant to search for such salt.

Magistrate may issue search-warrant on application.

(SECS. 23, 29.)

Such warrant shall be executed in the same way, and shall have the same effect, as a search-warrant issued under the Code of Criminal Procedure.¹ 25 of 18

It shall be lawful for any Magistrate of the town of Calcutta, on the like application in reference to salt believed to be manufactured in Calcutta contrary to the provisions of this Act, or kept or concealed contrary to the provisions of this Act in any house, boat or place in Calcutta, to issue a warrant, which shall be executed in the same way and shall have the same effect as a search-warrant under Act 13 of 1856 (*for regulating the police of the towns of Calcutta, Madras and Bombay*).²

Rules
regarding
entry of houses
by force.

28. Whenever any officer in charge of a police-station shall have reasonable cause to believe from information (which shall be taken down in writing) that salt is being manufactured in any place contrary to the provisions of this Act, or that salt not specified in a *rawana* is kept or concealed in any house, boat or place,

such officer may, between sunrise and sunset, but always in the presence of another police-officer, enter into any such house, boat or place, and in case of resistance may break open any door and remove any obstacle to such entry;

and may seize and carry away all such salt so found, and all materials and implements used, or intended to be used, in the manufacture,

and may arrest all persons concerned in the manufacture or in the keeping and concealing of such salt:

Provided that, whenever it shall be necessary to enter any house in such manner, the rules for entering a house in execution of a search-warrant, prescribed in Chapter VIII of the Code of Criminal Procedure³, and in the said Act 13 of 1856,⁴ shall be observed by the officer effecting such entry. 25 of 1861.

Magistrate
may summon
persons and
adjudge
confiscations.

29. When any salt or other property shall be seized as contraband, any Magistrate within the district or division of a district wherein the same may be seized may, upon the information of any police-officer, summon the person in

¹ The Code of Criminal Procedure here referred to (Act 25 of 1861) was repealed and re-enacted by Act 10 of 1872. The latter Act was repealed and re-enacted by Act 10 of 1898, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898). The reference in the text should be taken to be made to the Act of 1898—see s. 3 (1) thereof, in General Acts, 1898-09, Ed. 1909, p. 40.

² As to search-warrants, see ss. 96 to 99 of Act 5 of 1856, in General Acts, 1856-09, Ed. 1906, pp. 71-73.

³ Act 13 of 1856, so far as it is applied to the town of Calcutta, was repealed and re-enacted by the Calcutta Police Act, 1866 (Ben. Act 4 of 1866). The Bengal Salt Act, 1875 (Ben. Act 1 of 1875), s. 8 (post, p. 227), declares that all references made to Act 13 of 1856 in the Salt Act, 1864, shall be taken to be made to the Calcutta Police Act, 1866 (Ben. Act 4 of 1866), which is printed post, p. 89.

⁴ The Code of Criminal Procedure here referred to (Act 25 of 1861) was repealed and re-enacted by Act 10 of 1872. It was declared in s. 3 of Act 10 of 1872 that this reference to Chapter VIII of Act 25 of 1861 should be deemed to be made to Chapter XXVII and ss. 415 to 430 (both inclusive) of Act 10 of 1872. Act 10 of 1872 was repealed and re-enacted by Act 10 of 1898, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898). Section 3 (1) of the Code of 1898 carries on reference to former Codes, and the reference in the text should therefore now be taken to be made to the search-warrant provisions of Act 5 of 1898 (printed in the General Acts, 1898-1908, Ed. 1909, p. 40.)

[1864.]

(SECS. 30-36.)

possession of such salt or other property, or to whom the same may belong, to appear before him; and upon such appearance, or in default thereof may examine into the cause of the seizure thereof, and may adjudge the same to be confiscated.

30. The rules contained in the Code of Criminal Procedure¹ for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate shall be applicable to adjudications under the last preceding section.

Rules of Criminal Procedure Code² applied.

31. When any salt or other property shall be seized under this Act as liable to confiscation within the local limits of the town of Calcutta, such seizure shall, upon information exhibited by any police-officer, be heard and determined in a summary way by a Justice of the Peace for the town of Calcutta;

Seizures within Calcutta to be determined on by Justice of the Peace.

and such Justice shall cause the person in possession of such salt or other property, or to whom the same may belong, to be summoned to appear before him; and upon such appearance, or in default thereof, shall inquire into the cause of such seizure, and may adjudge the same to be confiscated.

32. When the confiscation of any salt or other property shall be adjudged under the three last preceding sections, the same shall thereupon belong to, and vest in, Her Majesty, and a warrant shall be issued by the Court to a police-officer directing him to hold the salt or other property confiscated at the disposal of the Board of Revenue.

On confiscation, salt to vest in Her Majesty.

33. Any police-officer who shall vexatiously and unnecessarily seize the goods or chattels of any person on the pretence of seizing or searching for contraband salt, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess beyond what is required for the execution of his duty, shall be liable to a fine not exceeding five hundred rupees or to simple imprisonment for a term not exceeding six months.

Penalty for vexatious seizures and arrests.

34. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence,

Punish on second subsequent conviction.

he shall be liable, in addition to the penalty attached to such offence, to simple imprisonment for a period not exceeding six months,

and a like punishment of imprisonment not exceeding six months shall be inflicted, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

35, 36. (*Enforcement of penalties.—Period of imprisonment in default of payment of fine.*) *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

¹ The Code of Criminal Procedure here referred to (Act 25 of 1861) was repealed and re-enacted by Act 10 of 1872. The latter Act was repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (6 of 1898). The reference in the text should be taken to be made to the Act of 1898—see s. 2 (2) thereof, in General Acts, 1898-02, Ed. 1909, p. 40.

(Secs. 37-42.—Schedule).

Limitation as
to charge.

37. No charge of an offence under this Act shall be instituted except within six months after the commission of such offence.

Bar or
certiorari as
to Justices'
proceedings.

38. No writ of *certiorari* shall be issued at the suit of any party out of the High Court of Judicature, to supersede, stay, remove or in any wise affect any information or judicial proceeding before any Justice of the Peace in pursuance of this Act;

Quashing
judgment.

and no judgment thereupon shall be quashed, except for error of law apparent on the face of the judgment.

Board of
Revenue may
mitigate
penalties.

39. When any confiscation or penalty shall be adjudged under this Act, the Board of Revenue, within three months after final judgment, may call for the proceedings of the case, and if they shall see cause may direct that the seizure or any part thereof be restored, and may remit the penalty or part thereof and direct that the offender be discharged.

Disposal of
proceeds of
seizure and
fines.

40. All fines paid or levied under * * * this Act shall be at the disposal of the Board of Revenue, and the said Board may appropriate the same or any portion thereof, and the proceeds of any seizure or any portion of such proceeds, to form a fund for rewarding the police of such grades as may be determined by the said Board, and for rewarding informers, and for compensating persons subjected to annoyance or injury by any proceeding under this Act.

Limitation of
suits, etc.

41. No suit, action or other proceedings shall be commenced against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended suit, action or other proceeding, and of the cause thereof; nor after the expiration of three months from the accrual of the cause of suit, action or other proceeding.

42. (*Power to notify commencement of Act*). Rep. by the *Repealing Act, 1873* (12 of 1873).

SCHEDULE.

(*Enactments repealed*). Rep. by the *Repealing Act, 1873* (12 of 1873).

* The words and figures "section 35 of," which were repealed by the *Repealing and Amending Act, 1908* (1 of 1908), are omitted.

of 1884.]

(Appendix.)

APPENDIX.—NOTE SHOWING THE EXTENT TO WHICH THE
INDIAN SALT ACT, 1882, IS IN FORCE IN BENGAL.¹

1. Sections 1, 2, 7 and 8 of the Indian Salt Act, 1882 (12 of 1882),² and so much of that Act as refers to offences against any of its provisions or against any rules made under it, extend to the whole of British India (*see* section 1 of the Act), including Bengal.

2. Section 1 of the said Act empowers the Governor-General in Council to extend any portion of the Act (other than the portions specified in paragraph 1 above, which are already in force) to any part of Bengal. Under this power the following extensions have been made for Bengal, namely:—

- (1) to the districts of the 24-Parganas [except Calcutta, as to which *see* clause (2), *post*], Midnapore, Khulna, Backergunge and Chittagong, the whole Act, except—
- (a) the portions specified in paragraph 1, above (which were already in force),
- (b) the words “an Assistant Commissioner of Northern India Salt Revenue, and also includes,” in the second clause of section 3,
- (c) the words “any officer of the Northern India Salt Department, and also includes,” in the third clause of section 3,
- (d) sections 5, 8A and 8B,
- (e) the words “unless the Commissioner of Northern India Salt Revenue otherwise directs,” in section 22,
- (f) the last sentence of section 27, and
- (g) the words “or the Commissioner of Northern India Salt Revenue,” in section 30;
- (2) to “Calcutta,” as defined by or under the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899),³ and to the area included within a distance of two miles from the limits of Calcutta, as so defined, the whole Act, except the portions referred to in sub-clauses (a) to (g) of clause (1) above;
- (3) to the districts of Howrah and Noakhali, the whole Act, except the portions referred to in sub-clauses (a) to (g) of clause (1), above.

See
Notification
No. 1684
S.R., dated
the 9th April,
1898, in
Calcutta
Gazette, 1898,
Pt. I.A., p. 88;
and
Notification
No. 2767
S.R., dated
the 21st May,
1901, in
Calcutta
Gazette, 1901,
Pt. I.A., p.
100.

See
Notification
No. 1907
S.R., dated
the 10th
April, 1901,
in Gazette of
India, 1901,
Pt. I, p. 238.
See
Notification
No. 1143
S.R., dated
the 2nd
March, 1901,
in Gazette of
India, 1901,
Pt. I, p. 124.

¹ This note has been corrected up to the 1st September, 1914.

² Printed in General Acts, 1879-86, Ed. 1906, p. 882.

³ Printed in Vol. III of this Code.

(Appendix—*contd.*)

See
Notification
No. 8909,
dated the
29th June
1889, in
Calcutta
Gazette, 1889,
Pt. I A., p. 69.

(4) to the district of Malda, the whole Act, except—

(a) the portions specified in paragraph 1, above
(which were already in force), and

(b) section 31 ;

3. Sections 8A and 8B, and the last sentence of section 27, were introduced into the Act by the Indian Salt Act (1882) Amendment Act, 1890 (19 of 1890),¹ and all these clauses as well as section 5 relate only to Northern India. Section 31 related only to the Madras Presidency, and was repealed by the Act of 1890 just mentioned.

It will thus be seen that the whole of the Act of 1882, so far as it is applicable to Bengal, is now in force in the several areas mentioned in clauses (1) to (4) of paragraph 2, *ante*.

¹ Printed in General Acts, 1887-97, Ed. 1909, p. 294.

BENGAL ACT 4 OF 1865

[THE BENGAL PREVENTION OF INOCULATION ACT, 1865¹].

(1st April, 1865.)

An Act for the prohibition of the practice of inoculation in the town and suburbs of Calcutta and in towns to which Act 3 of 1864, passed by the Lieutenant-Governor of Bengal in Council, has been or shall hereafter be extended.

Whereas it is found that small-pox is spread by inoculators who infect persons living in towns without adopting any precaution against contagion; Preamble.

And whereas proper and sufficient arrangements have been made in the town of Calcutta and in its suburbs, and in certain other towns in the province of Bengal², for the vaccination or inoculation with the cow-pox of the inhabitants thereof respectively; and it is desirable to prohibit by law the practice of inoculation with the small-pox in such towns and places;

It is enacted as follows:—

1. Any person who shall hereafter produce, or attempt to produce, in any person, by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article or thing impregnated with variolous matter, or who shall wilfully, by any other means whatsoever, produce the disease of small-pox in any person, shall be liable, on conviction before a Magistrate, to imprisonment of either description for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both. Penalty for inoculating otherwise producing small-pox.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1865, p. 280.

LOCAL EXTENT.—This Act extends to the town and suburbs of Calcutta and to Howrah, and may (see s. 5, post, p. 40.) be extended to—

- (a) any other municipality,
- (b) any cantonment, or
- (c) any place in which there are proper and sufficient arrangements for inoculation with cow-pox.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracks Regulation, 1900 (1 of 1900), section 4(8), printed in Vol. I of this Code.

FURTHER ENACTMENT.—For a further enactment relating to small-pox, see the Bengal Vaccination Act, 1880 (Ben. Act 5 of 1880) post p. 463.

² Ben. Act 5 of 1864 was repealed by Ben. Act 5 of 1876, which again has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 2 of 1884). This reference to Ben. Act 5 of 1864 must now be taken to be made to the Bengal Municipal Act, 1884—see s. 2 of the latter Act, post p. 710.

³ This includes the present Presidency of Fort William in Bengal and other territory.

(Secs. 2-4.)

Penalty for entering place, subject to Act, without certificate, before forty days from date of inoculation.

2. If any person, having been inoculated with the small-pox in a place to which the provisions of this Act shall not at the time be applicable shall afterwards enter the town of Calcutta, or any other town or place to which such provisions shall then be applicable, before the lapse of forty days from the date of such inoculation, or without a certificate from a qualified medical officer¹ stating that such person is no longer likely to cause contagion, such person shall be liable, on conviction before a Magistrate, to imprisonment of either description for a period not exceeding three months, or to a fine not exceeding two hundred rupees, or to both.

Act where to take effect.

3. This Act shall take effect in the town of Calcutta and in the station of Howrah and suburbs of Calcutta, as the same are defined in the Schedule appended to Act 21 of 1857² (to make better provision for the order and good government of the suburbs of Calcutta and of the station of Howrah), from the date of the passing of this Act;

and it shall be lawful for the Lieutenant-Governor of Bengal,³ at any time after such date, by notification⁴ published in the Calcutta Gazette, to extend this Act to any town or place to which Act 3 of 1864⁵ passed by the Lieutenant-Governor of Bengal in Council (the District Municipal Improvement Act) shall then apply, or in which there shall then be any Military Cantonment, or in which it shall appear to the Lieutenant-Governor of Bengal⁶ that at the time of such notification there exist proper and sufficient arrangements for the inoculation of the inhabitants thereof with the cow-pox.

Mode of procedure.

4. The provisions of the Code of Criminal Procedure⁷ 25 of 1861. relative to the meaning thereby assigned to the word "Magistrate," and to cases triable under Chapter XV of the said Code⁸

¹ As to the meaning of the expression "qualified medical officer" see the Bengal Medical Act, 1914 (Ben. Act 6 of 1914), s. 80, in Vol. III of this Code.

² The Howrah Offences Act 1857. The Schedule to that Act is printed in Vol. I of this Code, except the portion relating to the suburbs of Calcutta, which was repealed by the Repealing Act, 1874 (18 of 1874). That portion ran as follows:—

"Suburbs of Calcutta.

The villages composing the Government estate of Punchanogram, and all lands belonging to any other estate which are situate within the general limits of the said Government estate.

Garden Reach or Moolchekhola—Ramnugger—Singeratee—Indree—Sonale—Borberiah—Rajbarampur—Bhokkylas—Dukhin—Shareepoor—Kidderpore—Bykantpoor—Aden Ganga Chur—Ram Chanderpur—Ekbalpoor—Mominpur—Bairampur—Allepore—Jesrant—Radhanuggur—Gopalnuggur—Doorgapoor—Chetia—Jarool—Dowlutpur—Sonadanga—Mangirat—Moyapoor—Shurhurpur."

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8 and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ For a list of notifications, issued under section 8 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ Ben. Act 8 of 1864 was repealed by Ben. Act 5 of 1876, which again has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884). This reference to Ben. Act 8 of 1864 must now be taken to be made to the Bengal Municipal Act, 1884—see s. 3 of the latter Act, post, p. 710.

⁶ The Code of Criminal Procedure here referred to (Act 25 of 1861) was repealed and re-enacted by Act 10 of 1873. The latter Act was repealed and re-enacted by Act 10 of 1893, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (6 of 1898), and the reference in the text should now be read as referring to the latter Act—see s. 8 (2) thereof; in General Act, 1908-09, Ed. 1909, p. 60.

shall apply to the case of any offence committed against this Act.

Whenever the convicting Magistrate shall sentence the offender to fine, it shall be lawful for such Magistrate to award any portion, not exceeding one-half, of such fine to the person on whose information such offender has been convicted.

¹ The words "and to the recovery of fines" were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

² The portion, applying Calcutta Police Acts, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

BENGAL ACT 7 OF 1865

[THE BENGAL MUNICIPAL (SLAUGHTER-HOUSES AND MEAT-MARKETS) ACT, 1865].¹

(26th April, 1865.)

An Act to make provision for the better regulation and supervision of Public Slaughter-Houses * * *, and for the adoption of proper Conservancy arrangements connected therewith.

Whereas it is necessary to make provision for the better regulation and supervision of public slaughter-houses and markets for the sale of meat and fish * * *, and for the adoption of proper conservancy arrangements connected therewith; It is enacted as follows:—

Preamble.

1. No place within [any limits to which this section has heretofore been, or may hereafter be, extended by notification under section 9] shall be used as a slaughter-house, unless a license in writing for the use thereof as a slaughter-house has been obtained from the Municipal Commissioners, who are hereby empowered, at their discretion, from time to time, to grant such license;

No place to be used as a slaughter-house without a license.

and whoever, without such license, uses as a slaughter-house any place within the limits aforesaid, shall be liable to a penalty not exceeding two hundred rupees, and to a penalty not exceeding fifty rupees, for every day, after the conviction for such offence, during which the said offence is continued:

Provided that nothing in this Act shall apply to any Hindu or Muhammadan place of worship.

¹SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1865, p. 554.

LOCAL EXTENT.—This Act applies only to towns and places to which it is extended by notification under s. 9—see s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

GENERAL LAW.—For the general law as to Municipalities in Bengal, see the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), *post*, p. 709, and the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), in Vol. III of this Code.

²The words "in the Suburbs of Calcutta," in the title and preamble, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

³These words in square brackets in s. 1 were substituted for the words and figures "the jurisdiction of the Municipal Commissioners of the Suburbs of the town of Calcutta appointed under the provisions of Act 8 of 1864, passed by the Lieutenant-Governor of Bengal in Council (the District Municipal Improvement Act)" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

(Secs. 2-5.)

Commissioners may provide places for slaughter-houses, and may make by-laws for the management and regulation thereof.

Licensed slaughter-houses to be properly drained.

Commissioners may make by-laws for the inspection of markets and slaughter-houses.

Commissioners may enter and inspect slaughter-houses, shops, etc., and may seize unwholesome articles exposed for sale.

2. The Municipal Commissioners may, from time to time, if they shall think fit, with the sanction of the Government of Bengal¹ provide places for the purpose of being used as slaughter-houses, and they may make by-laws for, and with respect to, the management, regulation and charges for the use of such places.

3. Every owner or occupier of any licensed slaughter-house, within the limits aforesaid, shall cause such drains to be made therein as shall be considered sufficient by the Municipal Commissioners, and (if required so to do by the Municipal Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such slaughter-house, or any place used as a meat-market, in a clean and wholesome state;

and if such owner or occupier, after notice in writing given to him by the Municipal Commissioners that such market or slaughter-house is defective in any of the said particulars, and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a penalty not exceeding fifty rupees, for every day during which such default is continued.

4. The Municipal Commissioners may, in the manner prescribed and under the conditions laid down in section 84 of [the said] Act 3 of 1864,² make by-laws for the inspection of all markets for the sale of meat or fish within the limits aforesaid, and for the management and conduct of the business therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours.

5. The Municipal Commissioners, or any person appointed by them for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall or place used for the sale of butcher's meat, poultry or fish, or as a slaughter-house, and may examine any animal, carcass or meat which may be therein;

and, in case any animal, carcass, meat or fish appear to be intended for the food of man and to be unfit for such food, may seize the same;

and if it appear to a Magistrate, upon the evidence of a competent person that such animal, carcass, meat or fish is unfit for the food of man, he shall order the same to be

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² Ben. Act 3 of 1864 was repealed by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), which again has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884). The reference to s. 84 of Ben. Act 3 of 1864 should now be taken to be made to Part XII of the Bengal Municipal Act, 1884—see s. 2 of the latter Act, *post*, p. 710.

of 1885.]

(Secs. 6-9.)

destroyed, or to be so disposed of as to prevent its being exposed for sale or used for such food; and the owner thereof, or the person in whose possession the same is found, shall be liable to a penalty not exceeding one hundred rupees.

6. The Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act, relating to slaughter-houses, or of the non-observance of any of the by-laws relating thereto, may in addition to the penalty imposed on such person under the authority of this Act, suspend such license for any period not exceeding two months; and, upon conviction for a second or other subsequent like offence, such license may, in addition to the penalty imposed under the authority of this Act, be revoked.

Suspension or revocation of license.

7. Whoever, during the period for which any such license is suspended, or after the same is revoked as aforesaid, slaughters cattle, or allows cattle to be slaughtered in the slaughter-house to which such license relates, shall be liable to a penalty not exceeding one hundred rupees for every day, after the conviction for such offence, during which the said offence is continued.

Penalty for using slaughter-houses during suspension or revocation of license.

8. The provisions of [the said] Act 3 of 1864¹ in regard to prosecutions for offences and the enforcement of fines and forfeitures shall be applicable to all prosecutions for offences and the recovery of fines and forfeitures under this Act.

Certain provisions of Bengal Act 3 of 1864 rendered applicable.

9. It shall be lawful for the Lieutenant-Governor of Bengal² to extend, by notification³ in the Calcutta Gazette, the provisions of this Act, or of any specific portion thereof, to any towns or places in which [the said] Act 3 of 1864¹ may be in force.

The provisions of this Act may be extended to places under Bengal Act 3 of 1864.

¹ Ben. Act 3 of 1864 was repealed by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876) which again has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884). The reference in the text should now be taken to be made to ss. 852, 853 and 855 of the Bengal Municipal Act, 1884—see s. 2 of that Act, *post*, p. 710.

² The words "and the magisterial powers conferred upon the Municipal Commissioners by section 5 of the above Act shall be exercised by them for all the purposes of this Act," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ For a list of notifications issued under section 9 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

BENGAL ACT 8 OF 1865

[THE BENGAL RENT RECOVERY (UNDER-TENURES) ACT, 1865].⁴

(7th June, 1865.)

An Act to amend the law for the sale of such under-tenures as by the title-deeds or established usage of the country are transferable by sale or otherwise for the recovery of arrears of rent due in respect thereof.

Whereas doubts have arisen, in consequence of the repeal of section 16 of Regulation 7 of 1832,¹ as to the authority by whom *putni taluks* and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation 8 of 1819² are to be sold for arrears of rent due to the proprietor on account thereof;

And whereas it is expedient to amend the law for the sale of under-tenures in satisfaction of decrees for the recovery of such arrears;

It is enacted as follows:—

1. The word “Collector” as used in this Act, includes all officers exercising the full powers of a Collector of a district. ^{“Collector” defined.}

2. (*Laws repealed*). *Rep. by the Repealing Act, 1873 (12 of 1873).*

3. The sale for the recovery of arrears of rent of *putni taluks* and other saleable under-tenures of the nature defined in clause 1 of section 8 of Regulation 8 of 1819³ shall be conducted by the Collector of land-revenue in whose jurisdiction, as defined by Act 6 of 1853,⁴ the lands lie; and all acts preparatory to, or connected with, the sale of such under-tenures as aforesaid which, by Regulations 8 of 1819⁵ and 1 of 1820⁶ the Judge is required to perform, shall be performed by the said Collector. ^{Sale by who conducted.}

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—see Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1865, p. 287.

LOCAL EXTENT.—This Act contains no local extent clause, but it would appear from section 8 that it was intended to extend to the same territory as the Bengal Putni Taluks Regulation, 1819 (8 of 1819)—printed in Vol. I of this Code, namely, the whole of the former province of Bengal.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

PARTIAL REPEAL IN EASTERN BENGAL.—Sections 4 to 17 and the Schedule appear to be obsolete in Eastern Bengal in consequence of the repeal of the Bengal Rent Act, 1859 (10 of 1859), therein by the Bengal Tenancy Act, 1885 (8 of 1885); but see the saving in s. 2 (2) of the latter Act, in Vol. I of this Code.

ANNOTATED REPRINT.—This act is reprinted with notes, in the Bengal Sale Law Manual, 1908, p. 92.

² Ben. Reg. 7 of 1832 was finally repealed by the Bengal Civil Courts Act, 1871 (4 of 1871).

³ The Bengal Putni Taluks Regulation, 1819. It is printed in Vol. I of this Code.

⁴ The number clause, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted. See now the Bengal General Clauses Act, 1896 (Ben. Act 1 of 1896), s. 24, in Vol. III of this Code.

⁵ The Rent Recovery Act, 1868. It is printed in Vol. I of this Code.

⁶ The Bengal Putni Taluks Regulation, 1820. It is printed in Vol. I of this Code.

(Secs. 4-9.)

Publishing
of notice of
sale.

¹4. Whenever a decree for an arrear of rent, due in respect of an under-tenure saleable under the provisions of section 105 of Act 10 of 1859¹, shall have been obtained, and an application for the sale of the said under-tenure under the same section shall have been made and allowed, the Collector in whose Court the decree is in course of execution shall thereupon cause to be hung up in his own Court and in that of the Collector and the Judge of the district within which the land comprised in the under-tenure to be sold is situated, and to be affixed on some conspicuous place on the land and in the town or village in or nearest to which the said land is situated, a notice for the sale of the said under-tenure on some fixed date not less than 20 days from the hanging up of the said notice in the Court in which the decree is in course of execution.

Contents of
notice of sale.

¹5. The said notice shall specify, in the words issued in the plaint in the suit in which the decree was made, the name of the village, estate and *pargana*, or other local division, in which the land comprised in the said under-tenure is situated, the yearly rent payable under the said under-tenure, and the gross amount recoverable under the said decree.

How sale may
be stopped.

¹6. If the sum due under the decree, together with interest to date of payment and all costs of process, be paid into Court at any time before the sale commences, whether by the defaulting holder of the under-tenure or any one on his behalf, or any one interested in the protection of the under-tenure, such sale shall not take place; and the provisions of section 13 of Regulation 8 of 1819,² for the recovery of sums paid by other than the defaulting-holder of the under-tenure to stay the sale of the under-tenure, shall be applicable to all similar payments made under this section.

Sale to
highest
bidder.

¹7. The under-tenure shall be sold to the highest bidder in open Court.

Deposit by
purchaser.

¹8. The party who shall be declared to be the purchaser shall be required to deposit immediately, in cash or Government currency notes, twenty-five *per cent.* of the amount of his bid; and, in default of such deposit, the under-tenure shall be put up again and sold forthwith, or on the next ensuing office-day.

Deposit
debited if
balance of
purchase-
money not
paid up.

¹9. The full amount of the purchase-money shall be made good by the purchaser before sunset of the eighth day from that on which the sale of the under-tenure took place, reckoning that day as one of the eight; or, if the eighth day be a Sunday or other close holiday, then on the first office-day after the eighth day; and, in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to the Government, and the under-tenure shall be re-sold, and

¹ As to the repeal of sections 4 to 9 in Eastern Bengal, see footnote on p. 47, ante.

² The Bengal Rent Act, 1889. It is printed in Vol. I of this Code.

³ The Bengal Patta Taluqa Regulation, 1819. It is printed in Vol. I of this Code.

of 1885.]

(Secs. 10-15.)

the defaulting purchaser shall forfeit all claims thereto or to any part of the sum for which the said under-tenure may be subsequently sold.

If the proceeds of the sale which may be eventually completed be less than the price bid by the defaulting purchaser, the difference shall be leviable from him under the law for enforcing the payment of money in satisfaction of a decree for arrears of rent.

'10. The provisions of all the sections of this Act with regard to sales shall also be applicable to all re-sales under this Act which may be rendered necessary by the default of any purchaser.

Provisions as to sales to apply to re-sales.

'11. When the purchase-money shall have been paid in full, the officer holding the sale shall give the purchaser a certificate in the form prescribed in the Schedule annexed to this Act; and shall further, on the purchaser making application and depositing the requisite costs, depute an officer or *amin* to put him in possession of the under-tenure in the customary manner, and to publish the fact of the purchase to the cultivators of the lands comprised therein.

Certificate and possession to be given to purchaser on payment in full.

'12. From the proceeds of the sale of the under-tenure the officer holding such sale shall repay to the judgment-creditor the necessary expenses incurred by him in procuring it; and, after satisfying the decree in execution of which the sale was made, shall hold the residue, if any, in deposit on account of the defaulting holder of the under-tenure.

Proceeds of sale how dealt with.

'13. An appeal shall lie to the Collector from any proceedings of a Deputy or Assistant Collector, if made within fifteen days; and to the Commissioner from any original proceedings of a Collector under this Act if made within thirty days from the date of the sale: but no proceedings under this Act shall be reversed or modified in appeal, except upon the ground of irrelevancy of the law, or of such an irregularity in procedure as, in the opinion of the appellate authority, has caused injury to the interests of one of the parties to the suit in which the decree was passed.

Appeal.

'14. No appeal as of right shall lie from any order passed in appeal under this Act; but a Commissioner in any case in which an appeal has been heard by a Collector, and the Board of Revenue in any case in which an appeal has been heard by the Commissioner, may call for the record at any time within three months from the date of the order passed in appeal, and pass thereon such orders as they may think proper.

Power of revision.

'15. If any sale of an under-tenure shall, under either of the two preceding sections, be set aside, the purchaser shall be entitled to receive back the purchase-money with or without interest, and in such manner as the appellate or revising authority may in each instance direct.

Recovery by purchaser of purchase-money if sale set aside.

¹ As to the repeal of sections 10 to 15 in Eastern Bengal, see footnote on p. 47 ante.

50 THE HENGAL RENT RECOVERY (UNDER-TENURES) ACT, 1865.

[Ben. Act 8 of 1865.]

(Secs. 16-18.—Schedule.)

Any order for the recovery of the purchase-money or interest, passed by such appellate or revising authority as aforesaid, may be enforced by the process in force under decrees for the recovery of arrears of rent.

Purchaser to acquire the under-tenure with certain exceptions, free of incumbrances.

16. The purchaser of an under-tenure sold under this Act shall acquire it free from all incumbrances which may have accrued thereon by any act of any holder of the said under-tenure, his representatives or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by the written engagement under which the under-tenure was created or by the subsequent written authority of the person who created it, his representatives or assignees:

Provided that nothing herein contained shall be held to entitle the purchaser to eject *khudkast raiyats* or resident and hereditary cultivators, nor to cancel *bona fide* engagements made with such class of *raiya*t or cultivators aforesaid by the late incumbent of the under-tenure or his representatives except it be proved, in a regular suit, to be brought by such purchaser for the adjustment of his rent that a higher rent would have been demandable at the time such engagements were contracted by his predecessor.

Nothing in this section shall be held to apply to the purchase of a tenure by the previous holder thereof, through whose default the tenure was brought to sale.

Zamindar how to proceed if purchaser do not register.

17. The purchaser of an under-tenure sold under this Act shall apply to the *zamindar* or other landholder, within fifteen days from the day of sale, to have his name registered in the *zamindar* or other landholder's books as the purchaser; and shall execute a *kabuliyat* on the same terms and conditions on which the under-tenure was held by the defaulter; and, if such application be not made within fifteen days, it shall be lawful for the *zamindar* or other landholder to sue the said purchaser under the provisions of clause 1 of section 23 of Act 10 of 1859.¹

18. (Indemnity). Rep. by the Repealing Act. 1873 (12 of 1873).

SCHEDULE.

(Referred to in section 11.)

I certify that A. B. has purchased, under Act 8 of 1865, the under-tenure (as specified in the notice of sale), and that his purchase took effect on the _____ day of _____ (being the day after that fixed for the last day of payment).

(Signed) C. D.

Collector.

¹ As to the repeal of sections 16 and 17 and the Schedule in Eastern Bengal, see footnote on p. 47 ante.
² The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

BENGAL ACT 2 OF 1866

(THE CALCUTTA SUBURBAN POLICE ACT, 1866).

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SECTION.

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 - (11) driving cart with insufficiently greased wheels ;
 - (12) (*Repealed.*)
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FORM OF CERTIFICATE.

BENGAL ACT 2 OF 1866

(THE CALCUTTA SUBURBAN POLICE ACT, 1866).¹

(21st March, 1866.)

An Act to provide for the better regulation of the Police within the Suburbs of the Town of Calcutta.

Whereas it is expedient to exclude the suburbs of the town of Calcutta from the general police-district of Bengal, and to make provision for the better regulation of the police within the limits so excluded; It is enacted as follows:—

Preamble.

1. It shall be lawful for the Lieutenant-Governor of Bengal² to exclude the suburbs of the town of Calcutta, or any portion thereof, from the general police-district of the provinces subject to his control; and the limits of the tract of country so excluded shall be defined in a notification to be published in the Calcutta Gazette, and the operation of this Act shall be confined to such limits.³

Suburbs may be excluded from general police-district

Provided that it shall be lawful for the said Lieutenant-Governor² from time to time to alter such limits by such notification as aforesaid.

2. For the suburbs of the town of Calcutta so defined as aforesaid there shall be a police-force, which shall consist of such number of officers * * * and shall be otherwise constituted in such manner, as shall be from time to time ordered by the Lieutenant-Governor of Bengal.⁴

Police for suburbs.

3. The police-force of the suburbs of the town of Calcutta shall be under the exclusive direction and control of the Commissioner of Police for the town of Calcutta, who may from time to time, subject to the approbation of the said Lieutenant-Governor,² frame such orders and regulations as he shall deem expedient relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, and the description of arms, accoutrements and other

Police to be under control of Commissioner of Police, Calcutta.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1900—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1866, page 2187.

LOCAL EXTENT.—This Act extends only to the suburbs of the town of Calcutta—see s. 1.

OTHER ENACTMENTS.—For other enactments relating to the Calcutta Suburban Police, see—

(1) the Licensed Warehouse and Fire-Brigade Act, 1898 (Ben. Act 1 of 1898),

(2) the Calcutta Police Act, 1898 (Ben. Act 1 of 1898),

(3) the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), ss. 643, 644; and

(4) the Calcutta Improvement Act, 1911 (Ben. Act 5 of 1911), s. 157, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Item 1, in Vol. I of this Code.

³ For notification under s. 1 defining the limits of the suburbs of Calcutta, see the Calcutta Gazette of the 23rd September, 1860, Part I, p. 651.

⁴ The words "and men," in s. 2, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 34, and are omitted.

(Secs. 4, 4A.)

necessaries to be furnished to them, and all such other orders and regulations relative to the said police-force as the said Commissioner shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

Appointment,
etc., of force
to rest, with
Commissioner.

4. The appointment of the members of the police-force shall rest with the Commissioner of Police; and he may, at any time suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty or otherwise unfit for the same.

Duties of
Police-officers.

4A. (1) It shall be the duty of every Police-officer—

- (a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors;
- (b) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences within his view;
- (c) to the best of his ability, to prevent the commission of public nuisances;
- (d) to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension there is sufficient reason;
- (e) to aid any other Police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;
- (f) to discharge such duties as are imposed upon him by any law for the time being in force;
- (g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear to be dangerous or to be incapable of taking care of themselves;
- (h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick and, while guarding or conducting any such person, to have due regard to his condition;

¹ Section 4A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 5 of 1910), s. 5, in Vol. III of this Code.

(Secs. 5-7.)

- (i) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody ;
- (j) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;
- (k) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness ;
- (l) to use his best endeavours—
 - (i) to prevent any loss or damage by fire, and
 - (ii) to avert any accident or danger to the public ;
- (m) to regulate and control the traffic in the streets, to prevent obstruction therein, and to the best of his ability to prevent the infraction of any rule or order made under this Act or under any other law for the time being in force for observance by the public in or near the streets ;
- (n) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship ;
- (o) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or any such boat ; and
- (p) to perform all duties imposed on him by rules for the time being in force under this Act, in the manner and subject to the conditions therein prescribed.

(2) All persons shall be bound to conform to the reasonable directions of a Police-officer given in fulfilment of any of the said duties.

(3) A Police-officer may restrain or remove any person resisting or refusing or omitting to conform to, any such direction as aforesaid.

5. For any lesser breach of discipline or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police-force may be fined by the Commissioner any sum not exceeding one-half of his monthly pay.

Commissioner may fine for lesser breaches of discipline.

6. (*Additional penalties for neglect of duty, etc.*). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.

7. No member of the Police-force to be enrolled under this Act shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention

Police not to resign without notice.

(Secs. 8-8B.)

if a member of the mounted branch of the said force, and two months' notice if a member of any other branch;

and every member of the said force who shall so resign or withdraw himself without such leave or notice shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him, and, on the sentence of a Magistrate, to pay a fine not exceeding fifty rupees, or to undergo imprisonment of either description for any term not exceeding two months.

On enrolment,
Police-officer
to receive
certificate.

8. Every member of the Police-force shall receive on his enrolment a certificate in the form hereunto annexed, under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a Police-officer.

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

Police-officers
prohibited
from other
employment.

¹ 8A. The Commissioner or a Deputy Commissioner of Police shall not, without the permission of the Lieutenant-Governor,² and a Police-officer of lower rank than that of Deputy Commissioner shall not, without the permission of Commissioner of Police,

either as principal or agent,—

- (a) engage in any trade, or
- (b) be in any way concerned in the purchase or sale of any immovable property within the town or suburbs of Calcutta or of any interest therein, or
- (c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police-officer.

Offences by
Police-officers.

¹ 8B. Any Police-officer who—

- (a) contravenes any provision of the last foregoing section, or
- (b) is guilty of cowardice, or
- (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police-officer to observe or obey, or
- (d) is guilty of any violation of duty for which no punishment is expressly provided by any other law for the time being in force,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees and which may be deducted from any salary due to him, or to both.

¹ Sections 8A and 8B were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 7, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

of 1866.]

(Sees. 8U-10.)

8C. Any Police-officer who—

- (a) without lawful authority or reasonable cause, enters or searches, or causes to be entered or searched, any building, vessel, tent or place, or
- (b) vexatiously and unnecessarily seizes the property of any person, or
- (c) vexatiously and unnecessarily detains, searches or arrests any person, or
- (d) vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, or
- (e) offers any unnecessary personal violence to any person in his custody, or
- (f) holds out to an accused person any threat or promise not warranted by law,

Vexatious entry, search, seizure, arrest, detention, etc. by Police-officers.

shall be liable to imprisonment, with or without hard labour, for a term which may extend to six months, or to fine which may extend to five hundred rupees, or to both.

8D. Any person who knowingly makes a false statement or uses a false document, for the purpose of obtaining for himself or any other person employment or release from employment as a Police-officer, shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees, or to both.

False statement to obtain employment or release.

9. Every member of the Police-force who shall be dismissed from or shall cease to hold and exercise his office, and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and appointments and other necessities which may have been supplied to him for the execution of his duty, to the Commissioner or to such person and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment of either description for any term not exceeding one month.

Penalty for dismissed members not delivering up clothing, etc.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessities which shall not be so delivered over, wherever the same may be found.

10. (*Superannuation Fund*). *Rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1905 (Ben. Act 6 of 1905).*

¹ Section 8C was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 6 of 1910), s. 7, in Vol. III of this Code.

² Section 8D was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 6 of 1910), s. 8, in Vol. III of this Code.

(Secs. 11-15A.)

11. (*Disposal of proceeds of certain fines, etc.*). Rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1890 (Ben. Act 1 of 1890), s. 3.

ppointment
special
police-officers.

12. The Commissioner of Police may, of his own authority, appoint special Police-officers to assist on any temporary emergency.

owers of
special Police-
officers.

13. Every special Police-officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of police.

penalty
or special
Police-officer
neglecting
or refusing to
serve, etc.

14. If any person, being appointed a special Police-officer as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Appointment
of additional
Police-officers
in application
of private
persons.

15. The Commissioner of Police may also, if he shall think fit, on the application of any person, showing the necessity of it, appoint any additional number of Police-officers to keep the peace at any place within the limits of the operation of this Act, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such Police-officer shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the Police-officers belonging to the ordinary force:

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the Police-officers so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional Police-officers; and all moneys received by the Commissioner for the payment of any such additional Police-officers shall be accounted for by him.

Constitution
of divisions
and sections.

15A. (1) Subject to the control of the Lieutenant-Governor, the Commissioner of Police shall, by order,—

- (a) constitute such and so many Police divisions as he thinks fit, and
- (b) sub-divide such divisions into such and so many sections as he thinks fit, and
- (c) define the limits and extent of such divisions and sections.

(2) Every such order shall be published in the Calcutta Gazette and in the manner prescribed by this Act for the publication of public notices.

¹ Section 15A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 2, in Vol. III of this Code.

at 1866.]

(Secs. 15B-17.)

¹ 15B. Whoever, without satisfactory excuse, wilfully enters or remains in or upon any dwelling-house or private premises or any land or ground attached thereto, or any ground, building, monument or structure belonging to the Government or appropriated to public purposes, or any vehicle, boat or vessel, shall, whether he causes any actual damage or not, be liable to fine which may extend to twenty rupees.

Wrongfully entering or remaining in or on building, land, vehicle, etc.

16. A Police-officer may arrest without a warrant—

Apprehension and punishment of reputed thieves, etc.

any person found, between sunset and sunrise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another;

any reputed thief found, between sunset and sunrise, on board any vessel or boat, or lying or loitering in any bazar, street, . . . yard, thoroughfare or other place, who shall not give a satisfactory account of himself;

any person found, between sunset and sunrise, having his face covered or otherwise disguised, with intent to commit any such offences as aforesaid;

any person found, between sunset and sunrise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking;

and such person shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months.

² 17. (1) When the Commissioner of Police receives information that any house, room or place—

Power to order discontinuance of use of house, room or place as brothel, disorderly house or place of assignation in certain cases.

(a) is used as a brothel or disorderly house, or for the purpose of carrying on the business of a common prostitute, in the vicinity of any educational institution or of any boarding-house, hostel or mess used or occupied by students, or of any place of public worship or recreation, or

(b) is used as, or for the purpose, aforesaid to the annoyance of respectable inhabitants of the vicinity, or

(c) is used as, or for the purpose, aforesaid on any main thoroughfare which has been notified in this behalf

¹ Section 15B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 10, in Vol. III of this Code.

² The word "road," in s. 16, was repealed by the Calcutta and Suburban Police (Amendment) Act 1910 (Ben. Act 8 of 1910), s. 24, and is omitted.

³ These sections 17, 17A, 17B and 17C were substituted for the original section 17 by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), s. 2, in Vol. III of this Code.

(Secs. 17A, 17B.)

by the Lieutenant-Governor¹ on the recommendation of the Municipal Commissioners, or
(d) is used as a common place of assignation,

he may cause a notice to be served on the owner (if in occupation), lessor, manager or occupier of the house, room or place to appear before him either in person or by agent on a date to be fixed in such notice, and to show cause why, on the grounds to be stated in the notice, an order should not be passed for the discontinuance of such use of the house, room or place.

(2) If on the date fixed, or on any subsequent date to which the hearing may be adjourned, the Commissioner of Police is satisfied, after making such inquiry as he deems fit, that the house, room or place is used as described in clause (a), clause (b), clause (c) or clause (d) of sub-section (1), as the case may be,

he may, by written order, direct such owner, lessor, manager or occupier, within a period to be stated in such order, not less than ten days from the date thereof, to discontinue such use.

(3) For the purposes of an inquiry under sub-section (2), the Commissioner of Police may depute a Deputy Commissioner of Police to make a local investigation, and may take into consideration his report thereon.

(4) The decision of the Commissioner of Police that a house, room or place is used in any manner, or for any purpose, described in clause (a), (b), (c) or (d) of sub-section (1) shall be final, and the legality or propriety thereof shall not be questioned in any trial or judicial proceeding in any Court.

Penalty for
breach of
order.

17A. If any person against whom an order has been passed by the Commissioner of Police under sub-section (2) of the preceding section uses the house, room or place in a manner which contravenes such order after the period stated therein, he shall be punished, on summary conviction before a Magistrate, with a fine which may extend to twenty-five rupees for every day after the expiration of the said period during which the breach continues, and shall, on second conviction, be liable to simple imprisonment which may extend to three months in addition to, or in lieu of, any fine which is imposed under this section.

Power of
owner or lessor
to determine
case or ten-
ancy.

17B. Notwithstanding anything contained in any other law for the time being in force, the owner or lessor of any house, room or place, against the lessee, tenant or occupier of which an order has been passed directing the discontinuance of the use thereof as a brothel or disorderly house or for the purposes of carrying on the business of a common prostitute, or as a common place of assignation, shall be entitled forthwith to determine such lease, tenancy or occupation.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 6, and Sch. D, item 1, in Vol. I of this Code.
² See foot note * on page 69, ante.

of 1866.]

(Secs. 17C-19.)

¹ 17C. (1) The Commissioner of Police may, upon complaint made to him in writing by any person, by written order direct the discontinuance in any place of music or singing, the beating of drums or tom-toms, and the blowing or sounding of horns or other noisy instruments, if he is satisfied that the same is a nuisance and ought to be summarily stopped either on account of the dangerous illness of, or because it seriously interferes with the reasonable occupation of, any person resident or lawfully engaged in the neighbourhood:

Power to
order discon-
tinuance of
music in cer-
tain cases.

Provided that in any case where the discontinuance of music, or other sounds as aforesaid, is so ordered, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall give effect to any such alteration or reversal:

Provided also that nothing in this section shall apply to music or other sounds as aforesaid in any place of public worship, or on the occasion of any religious observance or ceremony.

(2) Any person who contravenes an order of the Commissioner of Police passed under sub-section (1) shall be punished with a fine which may extend to one hundred rupees.

18. Whoever has or keeps any hotel, tavern, punch-house, ale-house, *arrack* or toddy shop, or place for the sale or consumption of *ganja*, *chandu*, or other preparation of opium, hemp or other intoxicating drug, plant or substance,

Penalty for
keeping hotel,
etc., without
license.

or has or keeps any coffee-house, boarding-house, eating-house, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere),

without a license to be obtained in the manner hereinafter mentioned,

shall be liable to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued, without the necessary license:

Provided that nothing in this Act shall apply to the sale, in reasonable quantities, of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

19. No license shall be granted under the provisions of Act 21 of 1856 (to consolidate and amend the law relating to the *Abkari*-revenue in the Presidency of Fort William in Bengal),² unless the person applying for such license shall produce a certificate from the Commissioner of Police, stating

Excise-licenses
not to be
granted with-
out certificate
of Commis-
sioner of
Police.

¹ See foot-note* on page 59 ante.

² Act 21 of 1856 was repealed by the Bengal Excise and Licensing Act, 1878 (Ben. Act 2 of 1878), which has been repealed and re-enacted by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), and this reference should now be construed as a reference to the latter Act—see s. 6 (2) thereof, in Vol. II of this Code.

(Secs. 20-22.)

that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted.

No license so granted shall be renewable without a fresh certificate as aforesaid, previously obtained from the Commissioner of Police.

[The Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the Lieutenant-Governor.]

Duration and conditions of license

20. It shall be competent to the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor,¹ to limit, in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions² as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid; and no license granted under the said Act 21 of 1856³ shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

Penalty for keeping up sign-board or notice after expiry of license.

21. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted to remove or cause to be removed any sign-board or other notice which such person might have been theretofore bound, under the terms of his said license, to keep affixed on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith shall be liable, on conviction, to a fine of ten rupees for every day thereafter during which he shall so fail.

Commissioner may grant licenses for places for which no licenses are required under the Bengal Excise Act.

22. The Commissioner of Police may, at his discretion, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for which no such license as is specified in the said Act 21 of 1856⁴ is required, upon such conditions,⁵ to be inserted in every such

¹ These words in square brackets, in s. 19, were substituted for the words "subject to the order and control of the said Lieutenant-Governor" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 11, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

³ For conditions prescribed under ss. 20 and 22, see the Bengal Excise Manual 1910, Vol. I, pp. 98 to 100.

⁴ Act 21 of 1856 was repealed by the Bengal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878) which has been repealed and re-enacted by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), and this reference should now be construed as a reference to the latter Act—see s. 6 (2) thereof, in Vol. III of this Code.

[of 1866.]

(Secs. 22-33.)

license as he, with the sanction of the said Lieutenant-Governor¹ from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year.

23. Any person committing a breach of any of the conditions of a license granted either under section 19 or section 22 of this Act shall, on conviction before a Magistrate, be punishable by a fine not exceeding one hundred rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Penalty for
breach of con-
dition of
license.

Any person so convicted shall also be liable to the forfeiture of his license, at the discretion of the Commissioner of Police, subject to the direction and control of said Lieutenant-Governor¹.

24. For every certificate or license granted by the Commissioner of Police under this Act there shall be levied a fee of two rupees.

Fee for certi-
ficate.

25 to 30. (*Penalty for owning or keeping, or having charge of, common gaming-house, etc.; penalty for being found playing in common gaming-house; power to authorize entry of common gaming-house for search and seizure; evidence of house being common gaming-house; on conviction, or keeping common gaming house, instruments of gaming to be destroyed, etc.; proof of playing for stakes unnecessary; witnesses indemnified*). Rep. by the Bengal Public Gambling Act, 1867 (Ben. Act 2 of 1867), s. 17.

31. (*Portion of fine may be paid to informer*). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

32. (*Gambling in the streets*). Rep. by the Bengal Public Gambling Act 1867 (Ben. Act 2 of 1867), s. 17.

33. If any property answering the description set forth in any information which shall be given by any Police-officer to any pawnbroker or dealer in second-hand property, or money-changer, regarding property stolen or fraudulently obtained, shall then be or thereafter come into the possession of, or be offered in pawn or for sale or change to, such pawnbroker, dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest '[police-station,]' and shall also state the name and address given by

Pawnbrokers
and money-
changers to
report stolen
property under
penalty for
neglect.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

² The words "police-station," in s. 33, were substituted for the words "police-office" by the Calcutta and Suburban Police (Amendment) Act 1910 (Ben. Act 8 of 1910), s. 12, in Vol. III of this Code.

(Secs. 33A-36.)

the party by whom the same was offered, or from whom the same was received :

Provided always that, in the case of wearing apparel or other articles which it may be difficult for such pawnbroker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawnbroker or dealer.

Possession or dealing with thing stolen or fraudulently obtained.

¹**33A.** (1) Whoever has in his possession, or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe to have been stolen or fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be liable to fine which may extend to one hundred rupees, or to imprisonment, with or without hard labour, for a term which may extend to three months.

(2) If any person charged under sub-section (1) in respect of any thing declares that he received such thing from some other person, or that he was employed as a carrier, agent or servant to convey such thing for some other person,

the Magistrate, after such further inquiry (if any) as he may deem necessary, may summon such other person, and any former or pretended purchaser or other person through whose possession such thing is alleged to have passed, to appear before him, and may examine such person and any witnesses who are produced to testify to such receipt, employment or possession :

and, if it appears to the Magistrate that any such person had possession of such thing and had reasonable cause to believe that it was stolen or fraudulently obtained, the Magistrate may punish him with fine which may extend to one hundred rupees, or with imprisonment, with or without hard labour, for a term which may extend to three months.

Manufacture or possession of gunpowder.

34. Whoever shall manufacture gunpowder or, without a license from the Commissioner of Police, shall have in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

35. (*Licenses by Commissioner for sale and deposit of gunpowder, etc.*). *Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.*

Licenses for conveying and removing gunpowder.

36. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he

¹ Section 33A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 18, in Vol. III of this Code.

of 1866.]

(Secs. 37-39.)

may deem advisable; and any person, not being duly licensed in that behalf, who shall carry or convey a greater quantity of gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty rupees.

37. The Commissioner of Police, on credible information laid before him on oath¹,² [and reduced to writing,] may issue his warrant³ authorizing a Police-officer⁴ [not below the rank of Sub-Inspector] to search⁵ "any house, shop, magazine or other building or place in which he shall have reasonable ground to suspect that any⁶ [explosive substance] is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any⁷ [explosive substance] may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act"⁸ [or any other law or any rule made thereunder:] and all⁹ [explosive substance] found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Commissioner may issue warrant to search for explosive substance.

38. None of the⁷ [three] last preceding sections shall extend to any Government magazine or store, or building for the making or deposit of⁸ [explosive substances] under the authority or for the use of the Government, or to any⁹ [explosive substances] belonging to Government.

Act not to apply to Government explosive substances.

39. (1) With the previous sanction of the Lieutenant-Governor¹⁰, the Commissioner of Police may, after previous publication, from time to time make rules¹¹—

Power of Commissioner to make rules for regulation of traffic, etc.

(a) for licensing and controlling persons offering themselves for employment at quays, wharves or landing places for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons when so employed;

¹ As to oaths, see the Indian Oaths Act, 1873 (10 of 1873), in General Acts, 1868-73, Ed. 1909, p. 385.

² The words "and reduced to writing," in s. 37, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14(1), in Vol. II of this Code.

³ The words "not below the rank of Sub-Inspector," in s. 37, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910) s. 14(2), in Vol. III of this Code.

⁴ The words "in the day time," in s. 37, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14(3), and are omitted.

⁵ The words "explosive substance" in s. 37, were substituted for the word "gunpowder" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14(4), in Vol. III of this Code.

⁶ The words "or any other law or any rule made thereunder," in s. 37, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14(5), in Vol. III of this Code.

⁷ The word "three" in s. 38, was substituted for the word "four" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 15(2), in Vol. III of this Code.

⁸ The words "explosive substances" in s. 38, were substituted for the word "gunpowder" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 15(1), in Vol. III of this Code.

⁹ Sections 39, 39A, 39B and 39C were substituted for the original section 39 by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 16, in Vol. III of this Code.

¹⁰ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Item 1, in Vol. I of this Code.

¹¹ For a list of rules made under section 39 up to the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Sec. 39.)

- (b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, or driving, leading or riding in vehicles, or leading or accompanying cattle or walking, so as to prevent danger, obstruction or inconvenience to the public;
- (c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle;
- (d) prescribing the number and position of lights to be used on vehicles in streets and public places;
- (e) regulating and controlling the conveyance of timber, bamboos, scaffold-poles, ladders, iron-girders, beams or bars, boilers or other unwieldy articles, or coal, or bricks, lime or other building materials, through the streets, and the route and hours for such conveyance;
- (f) for licensing, controlling, or, in view to preventing obstruction, inconvenience or annoyance to residents or passengers in the vicinity, prohibiting, the playing of music in streets or in public places other than public buildings and the precincts thereof;
- (g) for licensing, controlling, or, in view to preventing risk, danger or damage to residents or passengers in the vicinity, prohibiting, the carrying of any explosive substances in streets or public places;
- (h) for controlling, in the interests of the public convenience and safety, the illumination of streets and public places, and the erection of structures on or over any street or public place, or against the exterior of any building abutting thereon, for the purposes of illumination;
- (i) for authorizing and regulating the removal, by the Police, of any structures referred to in clause (h) of this section, or any appliances for illumination placed on or over any street or public place or against the exterior of any building abutting thereon, when the Commissioner of Police considers that the same are likely to cause obstruction, danger or damage to residents or passengers in the vicinity; or
- (j) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and the lighting thereof when used by the public, and providing for the maintenance of public safety and the prevention of disturbance therein;

Provided that nothing in this section shall affect the provisions of the Indian Arms Act, 1878¹, or the Indian Explosives Act, 1884².

¹ Act 11 of 1878 is printed in General Acts, 1868-78, Ed. 1909, p. 690.

² Act 4 of 1884 is printed in General Acts, 1879-88, Ed. 1909, p. 459.

[1866.]

(Sec. 39A.)

(2) Any rules made under this section may, with the like sanction, be altered or rescinded by the Commissioner of Police after previous publication of the alteration or rescission.

(3) Every rule and alteration of a rule made under this section, and every rescission of any such rule, shall be published in the Calcutta Gazette and in the manner prescribed by this Act for the publication of public notices.

(4) Whoever contravenes any rule made under this section shall be liable,—

- (i) if the rule were made under clause (a), clause (b), clause (c) or clause (f) of sub-section (I)—to fine which may extend to fifty rupees, or
- (ii) if the rule were made under clause (d), clause (e) or clause (g) of sub-section (I)—to imprisonment, with or without hard labour, for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both, or
- (iii) if the rule were made under clause (h), clause (i) or clause (j) of sub-section (I)—to fine which may extend to one hundred rupees.

¹ 39A. (1) The Commissioner of Police, and, subject to the orders of the Commissioner of Police, every Police-officer of a rank not inferior to that of Sub-Inspector, may, with a view to securing the public safety or convenience, but not so as to contravene any rule made under the last foregoing section, or the provisions of any license granted under any such rule, give all such directions, either orally or in writing, as he may consider necessary to—

to give
directions
to the
public.

- (a) secure the orderly conduct of persons constituting processions and assemblies in streets;
- (b) prescribe the routes by which and the times at which any such procession may, or may not, pass;
- (c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed;
- (d) keep order on and in all streets, quays, wharves and landing places, and all other public places or places of public resort; or
- (e) regulate and control music, the beating of drums, tom-toms and other instruments, and the blowing or sounding of horns or other noisy instruments in any street or any public place other than public buildings and the precincts thereof.

¹ See foot-note * on page 66, ante

(Sec. 39A.)

-(2) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor¹ whenever and for such time as he may consider it necessary to do so for the preservation of the public peace or public safety, by notification, publicly promulgated or addressed to individuals, prohibit—

- (i) the carrying of swords, spears, bludgeons, guns or other offensive weapons in any public place;
- (ii) the carrying, collection and preparation of stones or other articles intended to be used as missiles, or of instruments of means of casting or impelling missiles;
- (iii) the exhibition of persons, corpses, figures or effigies in any public place; and
- (iv) the public utterance of cries, singing of songs or playing of music.

(3) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor¹ whenever and for such time as he may consider necessary, by notification, publicly promulgated or addressed to individuals, prohibit the delivery of public harangues, the use of gestures or mimetic representations, and the preparation, exhibition or dissemination of pictures, symbols, placards or any other object or thing, which—

- (i) may be of a nature to outrage morality or decency; or
- (ii) are likely, in the opinion of the Commissioner of Police, to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace, or to resistance to, or contempt of, the law or lawful authority.

(4) The Commissioner of Police may also, by order in writing, prohibit any procession or public assembly, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety;

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the Lieutenant-Governor¹.

(5) The Commissioner of Police may also, subject to the orders of the Lieutenant-Governor¹ by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved save under such conditions as may be prescribed by the Commissioner of Police.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

of 1866.]

(Secs. 39B, 39C.)

(8) Whoever contravenes any direction, order or prohibition lawfully given or made under this section shall be liable,—

- (i) if the direction, order or prohibition were given or made under sub-section (1) or sub-section (5)—to fine which may extend to one hundred rupees, or
- (ii) if the prohibition were made under sub-section (2), sub-section (3) or sub-section (4)—to imprisonment, with or without hard labour, for a term which may extend to one month, or to fine which may extend to one hundred rupees, or to both.

¹ 39B. (1) Whenever a notification, order in writing or public notice has been duly issued under sub-section (2), sub-section (3), sub-section (4) or sub-section (5) of the last foregoing section, then—

Enforcement of orders issued under the last foregoing section.

- (a) in the case of a notification issued under clause (i), clause (ii) or clause (iii) of the said sub-section (2), or in the case of a public notice issued under the said sub-section (5),—any Magistrate or any Police-officer, or
- (b) in the case of a notification issued under clause (iv) of the said sub-section (2), or under the said sub-section (3), or in the case of an order issued under the said sub-section (4),—any Magistrate or any Police-officer of or above the rank of Sub-Inspector,

may require any person acting or about to act contrary thereto to desist or to abstain from such action, and, in case of refusal or disobedience, may arrest such person.

(2) Any Magistrate or Police-officer acting under sub-section (1) may also seize anything used or about to be used in contravention of such notification, order or notice as aforesaid, and anything so seized shall be disposed of as any Magistrate having jurisdiction may order.

¹ 39C. (1) For the purpose of preventing serious disorder or manifest and imminent danger to the persons assembled at any place of public amusement, or at any assembly or meeting to which the public are invited or which is open to the public, the Police-officer of highest rank, superior to that of Head Constable, who is present may, subject to such rules, directions and orders as may have been lawfully made,

Power to give directions to prevent disorder at places of public amusement, etc.

give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at, such place, assembly or meeting;

and all persons shall be bound to conform to such directions.

¹ See foot-note * on page 65, ante.

(Sec. 40.)

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction given thereunder.

(3) Whoever disobeys or fails to conform to any lawful and reasonable direction given by any Police-officer under sub-section (1) shall be liable to fine which may extend to one hundred rupees.

40. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police, with the sanction of the said Lieutenant-Governor¹ in any * * * street, * * * thoroughfare or place of public resort, shall commit any of the following offences, shall be liable to a fine not exceeding fifty rupees :—

Penalty for
committing
in public
streets
offences of—

driving, etc.,
elephant or
camel ;

driving vehicle
without
sufficient
light ;

driving
other wise
than on left
side of road ;

exposing for
show horses,
cleaning or
repairing
conveyances,
or training
horses, in
places not
allowed by
Commis-
sioner

exposing or
keeping
articles so as
to cause
obstruction ;

(1) whoever shall drive ride or lead any elephant or camel without permission from the Commissioner of Police ;

(2) whoever shall drive any vehicle * * * at any time between three-quarters of an hour after sunset and one hour before sunrise, without a sufficient light * * * ;

(3) whoever, without reasonable cause, shall drive a * * * vehicle otherwise than on the left or near side of the road ;

(4) whoever shall expose for show, hire or sale any horse or other animal, or any carriage, or shall clean or dress any horse or other animal, or shall clean any carriage or other conveyance, or shall make or repair any part of any cart or carriage, except in cases of accident where repair on the spot is necessary, or shall train or break any horse, except in such place and at such times as may be allowed by the Commissioner ;

(4a) whoever exposes or keeps any article so as to cause obstruction in any public thoroughfare ;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

² The word "public" in s. 40, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and is omitted.

³ The word "road," in s. 40, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and is omitted.

⁴ The words "of any description" in s. 40(2), were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and are omitted.

⁵ The words "except when, in the opinion of the Magistrate, there may be sufficient present light to render such light unnecessary," in s. 40(2), were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and are omitted.

⁶ The words "carriage, cart or other," in s. 40(3), were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and are omitted.

⁷ Clause (4a) was inserted by the Calcutta and Suburban Police (Amendment) Act, 1946 (Ben. Act 3 of 1946), s. 17, in Vol. III of this Code.

(Sec. 40.)

- (8 to 9): (*negligence in driving cattle; leaving cart, etc. without control; obstructing road or thoroughfare by carriage, etc.; obstructing footway; beating drums, tom-toms, etc.*) *Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act, 3 of 1910), s. 34;*
- (10) whoever shall set fire to or burn any straw or other matter, or light any bonfire, or wantonly discharge any fire-arm or air-gun, or let off or throw any fire-work, or send up any fire-balloon, except at such times and places as shall from time to time be allowed by the Commissioner of Police; lighting fires and discharging guns, fireworks, etc.;
- (11) whoever, by driving a hackery or cart with insufficiently greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven; driving cart with insufficiently greased wheels.
- (12) (*illuminations;*) *Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34;*
- (13) whoever, without the consent of the owner or occupier, shall affix any bill or notice, or any paper, against or upon any building, wall, ¹[tree, fence, post, pole or other erection,] or shall write upon, deface or mark any such building, wall, ¹[tree, fence, post, pole or other erection] with chalk or paint, or in any way whatsoever; affixing bills or otherwise defacing houses, etc.;
- (14) whoever shall bathe or wash himself in any * * * street, or in, upon, or by the side of, any public tank, reservoir or aqueduct, not being a place set apart for such purpose; bathing, etc. in public street or aqueduct;
- (15) whoever shall obstruct or incommode a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats; or by washing * * * cattle or dogs, at or near such place, or in any other way; obstructing persons at bathing-places;
- (16) (*cruelty to animals;*) *Rep. by the Bengal Cruelty to Animals Act, 1869 (Ben. Act 1 of 1869), s. 8;*
- (17) whoever, in any public * * * street, thoroughfare or place shall beg or apply for alms, or shall expose beggars;

These words in square brackets in clause (13) of s. 40 were substituted for the words "or by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 3 of 1907), s. 7, in Vol. III of this Code.

¹The word "public" in s. 40(14), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and is omitted.

²The word "horses" in s. 40(15), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and is omitted.

³The word "road" in s. 40(17), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and is omitted.

(Secs. 40A-42.)

or exhibit any sores, wounds, bodily ailment or deformity with the object of exciting charity or of obtaining alms; or shall seek for or obtain alms by means of any false statement or pretences;

exposing
person, etc.

(18) whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself.

Refuges for
reception of
certain classes
of convicted
beggars.

40A. (1) The Lieutenant-Governor¹ may, by notification² in the Calcutta Gazette, declare any Institution, situated either in the town of Calcutta or in the suburbs thereof, to be a Refuge for the reception of aged, infirm or incurably diseased persons convicted under clause (17) of section 40, and sentenced to imprisonment under section 48 in lieu of payment of any fine imposed under the said section 40;

and may, by like notification, cancel any such declaration.

(2) When any such person is so convicted and sentenced to imprisonment for any term, the Magistrate may, by written order, direct that he be taken to, and detained for the said term in, any Refuge notified under sub-section (1), instead of being imprisoned.

(3) If any such person escapes, before the expiration of the said term, from a Refuge to which he has been so taken, the Magistrate may cancel the order made under sub-section (1), and may direct that the said person shall be imprisoned, with or without hard labour, for the unexpired portion of the said term.

Penalty for
drunkenness,
or riotous or
indecent be-
haviour, in
public.

41. Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any public street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding eight days.

Penalty for
solicitation
in a public
place.

41A. Whoever, in a public place, solicits any person to immorality, to the annoyance of the person solicited or of any two or more of the inhabitants or passers-by, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any period not exceeding eight days.

Stray dogs.

42. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal police-stations, and also to be published in some public newspaper, to appoint,

¹ Section 40A(1) was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 19, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal, by the Bengal, Bihar and Oude and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

³ For a notification issued under section 40A, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

⁴ Sub-sections (2) and (3) of s. 40A were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 20, in Vol. III of this Code.

⁵ This section was substituted for the original s. 41 by the Calcutta and Suburban Police (Amendment) Act, 1886 (Ben. Act 3 of 1886), s. 2, post, p. 974.

⁶ Section 41A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1886 (Ben. Act 3 of 1886), s. 2, in Vol. III of this Code.

of 1866.]

(Secs. 43, 43A.)

from time to time, certain periods within which any dogs found straying in the streets, or beyond the enclosures of the houses of the owners of such dogs, may be destroyed.

¹43. (I) Subject to the restrictions imposed by clause (b) of sub-section (I) of section 39B in the case of offences there referred to, any Police-officer may arrest without a warrant any person committing in his presence in any street or public place any offence punishable under—

Power to
arrest without
warrant.

- (a) any section of this Act other than section 41A, or
- (b) any rule made under this Act, or
- (c) any other law for the time being in force,

if such person,—

- (i) after being warned by a Police-officer, persists in committing such offence, or
- (ii) is unknown to such Police-officer and, when asked by such Police-officer to give his name and address, refuses to give the same, or gives a name or address which such Police-officer has reason to believe to be false, or cannot then and there ascertain to be true, or
- (iii) is unknown to such Police-officer, and his name and address cannot be ascertained then and there, and he refuses to accompany the Police-officer to a police-station on being required so to do.

Explanation.—This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by any other law.

² (2) Should the true name and residence of any such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute a recognizance for his appearance before a Magistrate, or, if so required, to furnish sureties, he shall forthwith be forwarded to a Magistrate having jurisdiction.

³43A. Any Police-officer above the rank of native constable, and such other officer as the Local Government or the Commissioner of Police may specially appoint in that behalf, may, at the instance of any person aggrieved, arrest without warrant any person who in his sight and in a public place solicits any person to immorality, to the annoyance of the person solicited or of two or more of the inhabitants or passers-by, if the name and address of such person be unknown to him and cannot be ascertained by him then and there.

Arrest with-
out warrant
for sollicita-
tion.

¹ This section 43(I) was substituted for the original section 43 by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 22, in Vol. III of this Code.

² This sub-section (2) in s. 43 was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 23, in Vol. III of this Code.

³ Section 43A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1895 (Ben. Act 2 of 1895), s. 3, in Vol. III of this Code.

(Secs. 44-47.)

Arrest of
person com-
mitting
offence with
respect to
person or
property of
another.

44. Whoever commits an offence on or with respect to the person or property of another, or in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons or by any person authorized by or acting in aid of him, and may be detained until he give his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Persons
taken into
custody by
Police-officer
without war-
rant may be
detained in
police-station
until brought
before Magis-
trate or
bailed.

45. Every person taken into custody without a warrant by a Police-officer under this Act shall be taken to the nearest [police-station] in order that such person may be detained until he can be brought before the Magistrate or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate.

Any person so detained and not entering into recognizances with or without such sureties, shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

Power to
take
recognizance
at police-
station.

46. Whenever any person shall be brought to a [police-station] charged with any offence against this Act, it shall be lawful for the officer in charge of such [police-station], or any superior officer of police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Condition of
recognizance.

47. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting; and all the persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum—not exceeding one thousand rupees—thereby acknowledged; and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such recognizance, together with the condition thereof and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

¹The words "police-station," in s. 45, were substituted for the words "police-station-house" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 24, in Vol. III of this Code.

²The words "police-station," in s. 46, were substituted for the words "station-house" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 24, in Vol. III of this Code.

of 1866.]

(Secs. 47A, 47B.)

47A. (1) If, in the course of any investigation, the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may, by order in writing, require the attendance, before himself or before any officer serving under him not below the rank of Sub-Inspector, who is investigating a cognizable offence, of any person then being within the limits of the town or suburbs of Calcutta, or within thirty miles of such limits, who, from the information given or otherwise appears to be acquainted with the facts or circumstances of the case; and such person shall attend as so required.

Power of
Commissioner
of Police to
require
attendance
and obtain
statements of
witnesses.

(2) The Commissioner of Police, or any officer aforesaid, may examine orally any person so attending, and may reduce into writing any statement made by him; and such person shall be bound to answer all questions relating to the case put to him by the Commissioner or such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The Commissioner of Police may, in any case, forward to the Superintendent of Police of the district in which any person, from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired; and such Superintendent shall, on receipt thereof, cause such person to be examined orally, and his statement to be reduced into writing, in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

(4) Subject to any rules made by the Lieutenant-Governor¹ with the previous sanction of the Governor General in Council, the Commissioner of Police may, if he thinks fit, order payment, on the part of the Government, of the reasonable expenses of any person residing in the town or suburbs of Calcutta who attends for the purposes of any investigation before himself or any other Police-officer under this section, and shall order payment as aforesaid of the reasonable expenses of any person not so residing who attends as aforesaid.

47B. If information is given on oath to the Commissioner of Police that any person is confined under such circumstances that the confinement amounts to an offence, and if it is for any reason impracticable to make an application to a Magistrate under section 100 or section 552 of the Code of Criminal.

Power to
search for per-
sons wrong-
fully confined.

¹ Section 47A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben Act 8 of 1910), s. 26, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

³ Section 47B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1911 (Ben. Act 8 of 1911), s. 27, in Vol. III of this Code.

(Secs. 47C-49A.)

Procedure, 1898¹, the Commissioner may issue a search-warrant to any Police-officer not below the rank of Sub-Inspector; and the officer to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein; and the person, if found, shall immediately be taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

Procedure in making searches.

² 47C. (1) Before any officer makes a search under this Act, he shall call upon two or more respectable persons to attend and witness the search.

(2) The search shall be made in the presence of such persons, and a list of all things seized in the course of the search, and of the places in which they are respectively found, shall be prepared by the said officer and signed by the said witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search; and a copy of the list prepared under sub-section (2), signed by the said witnesses, shall be delivered to such occupant or person at his request.

Recovery and appropriation of fines.

48. All fines imposed under the authority of this Act shall be recoverable in the manner prescribed by section 61 of the Code of Criminal Procedure,³ and the amount so levied shall be appropriated to any fund applicable to police purposes:

Imprisonment in lieu of fine.

Provided that it shall be lawful for the Magistrate, when it shall appear to him that the fine cannot be realized by recourse to the provisions above mentioned, to sentence the offender to imprisonment in lieu of any fine to which such offender is liable under this Act, and the term of such imprisonment shall be fixed in accordance with the scale laid down in section 67 of the Indian Penal Code.⁴

49. (*Powers of Joint and other Magistrates*). Rep. by Ben. Act 1 of 1874.

Public notices how to be given.

49A. Any public notice required to be given under any of the provisions of this Act shall be in writing, shall be signed by the Commissioner of Police, and shall be published, in the locality to be affected thereby, by affixing copies thereof in

¹ Sections 100 and 552 of the Code of Criminal Procedure (Act 5 of 1898) are printed in *General Acts, 1898-1903*, Ed. 1909, pp. 78 and 210, respectively.

² Section 47C was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 29, in Vol. III of this Code.

³ Act 26 of 1861 was repealed and re-enacted by Act 10 of 1872, s. 2, and Sch. V directed that this reference should be deemed to be made to s. 807 of the Act of 1872. Act 10 of 1872 was repealed and re-enacted by Act 10 of 1882, and the latter by Act 5 of 1898 (the present Code of Criminal Procedure). In accordance with Act 5 of 1898, s. 8, the reference in the text should now be taken to be made to ss. 886, 887 and 889 of that Act. Cf. also the Bengal General Clauses Act, 1899 (Ben. Act of 1899), s. 28, in Vol. III of this Code.

⁴ Section 67 of the Indian Penal Code (Act 45 of 1860) is printed in *General Acts, 1864-67*, Ed. 1909, p. 351.

⁵ Section 49A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 31, in Vol. III of this Code.

of 1866.]

(Secs. 49B-51.)

conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in such local newspapers, English or vernacular, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable.

49B. Whenever under this Act or any rule made hereunder the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner of Police or of any other Police-officer, a written document signed by the Commissioner of Police or by such officer, purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

Consent, etc., of Commissioner of Police or Police-officer how to be proved.

49C. Every license, written permission, notice, or other document [not being a summons or warrant or search-warrant, or a notification issued under sub-section (3) of section 39A, or an order made under sub-section (4) of that section, or an order made under section 47A] required by this Act, or any rule made hereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

Stamping of signature.

50. The Deputy Commissioner of Police for the town of Calcutta may, under the orders of the Commissioner, exercise all or any of the powers vested in the latter by the provisions of this Act.

Powers of Deputy Commissioner.

51. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

Interpretation.

the word "property" shall include any chattel, money or valuable security;

the word "person" shall include a corporation;

the word "month" shall mean calendar month;

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath;

the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine;

"[explosive substance" shall be deemed to include any materials for making any explosive substance; also any

¹ Section 49 B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 81, in Vol. III of this Code.

² Section 49 C was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 82(2), in Vol. III of this Code.

³ The definition of "common gaming-house," which was repealed by the Bengal Public Gambling (Amendment) Act, 1913 (Ben. Act 4 of 1913), s. 5(1), is omitted.

⁴ Clauses as to number and gender, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code.

⁵ This definition in square brackets, in s. 51, was added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 4, in Vol. III of this Code.

(Sec. 51.)

apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement;]

¹["place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same is provided, and to which the public are admitted, either on payment of money or with the intention that money may be collected from those admitted, otherwise than for a *bond fide* charitable purpose and shall include a race course, circus, theatre, music-hall, billiard-room, bagatelle-room, gymnasium and fencing-school;]

¹["place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food, drink or drug is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in, or managing, such place; and shall include a refreshment-room, eating-house, coffee-house, tea-shop, liquor-house, boarding-house, lodging-house, hotel, restaurant, tavern, wine-shop, beer-shop, spirit-shop, *arrack*-shop, toddy-shop, *ganja*-shop, *bhang*-shop and opium-shop;]

¹["Police-officer" shall mean any member of the Calcutta police force, and shall include the Commissioner of Police and a Deputy Commissioner of Police;]

¹["police-station" shall mean any post or place declared generally or specially, by the Lieutenant-Governor², to be a police-station, and shall include any local area specified by the Lieutenant-Governor² in this behalf;]

¹["public place" shall include the banks of the river, the docks, the jetties, warehouses to which the public have access, every public building and monument and the precincts thereof and all places accessible to the public for drawing water, washing or bathing, or for purposes of recreation;]

¹["street" shall mean any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have, permanently or temporarily, a right of access;]

¹ These definitions in square brackets in s. 51, were added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 4, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

of 1903.]

(Sec. 52.—Form of Certificate.)

¹["vehicle" shall include any locomotive, automobile, tramcar, carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-cycle or other wheeled conveyance of any description capable of being used on the streets.]

52. (*Act 21 of 1857 repealed in suburbs*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903); now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

FORM OF CERTIFICATE.*(Referred to in section 8.)*

A. B. has been appointed a member of the Calcutta Police force, and is vested with the powers, functions and privileges of a Police-officer.

Commissioner of Police.

CALCUTTA ;

The , 19 .

¹ This definition in square brackets, in s. 51, was added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 4, in Vol. III of this Code.

² This form of certificate was substituted for the original form by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 33, in Vol. III of this Code.

BENGAL ACT 3 OF 1866

[THE BENGAL LEGISLATIVE COUNCIL (WITNESSES)
ACT, 1866].¹

(28th March, 1866.)

An Act to provide for the attendance and examination of witnesses before the Council of the [Governor of Fort William in Bengal]² for making Laws and Regulations.

Whereas it is expedient to make provision for the attendance of witnesses before the Council of the [Governor of Fort William in Bengal]³ for making Laws and Regulations and for the examination of such witnesses; It is enacted as follows:—

Preamble.

1. It shall be lawful for the [Governor of Fort William in Bengal]⁴ by a summons under the hand of the Secretary⁵ or Assistant Secretary⁶ to the Government of Bengal in the Legislative Department for the time being,

Power to summon persons to appear.

to require the attendance before the Council of the [Governor of Fort William in Bengal]⁷ for making Laws and Regulations, at a time and place to be mentioned in such summons, of any person, residing within any of the provinces or places subject to the Government of the [Governor of Fort William in Bengal]⁸ whose evidence shall, in the judgment of such Council, be material with reference to any project of Law, Bill or Act then under consideration by such Council,

and by such summons to require the person so summoned to produce before such Council all such books, deeds and writings as to the said Council shall appear necessary for obtaining information as to the matter so under consideration;

and every person so summoned shall, according to the exigency of the summons, attend before the said Council, and produce such books, deeds and writings as shall be in his power, custody or control.

2. It shall be lawful for the said Secretary⁹ or Assistant Secretary¹⁰ to the Government of Bengal in the Legislative

Administration of an oath or affirmation.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

² LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1866, p. 352.

³ LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see s. 1. The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

⁴ The words in square brackets were substituted for the words "Lieutenant-Governor of Bengal" by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6 and Sch. III, in Vol. III of this Code.

⁵ The official title of this officer is now "Secretary to the Government of Bengal in the Legislative Department and Secretary to the Bengal Legislative Council."

⁶ The official title of this officer is now "Assistant Secretary to the Government of Bengal in the Legislative Department and Assistant Secretary to the Bengal Legislative Council."

(Secs. 3, 4.)

Department for the time being, or any other officer appointed in that behalf by the [Governor of Fort William in Bengal]¹ to administer an oath or affirmation², in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid.

But nothing herein contained shall prevent such person from giving evidence without oath or affirmation, if the said Council shall think it expedient that the evidence should be so given.

Powers
against
persons
failing to
appear, etc.

3. If any person, upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last known place of abode,

shall, without reasonable cause (to be allowed by the said [Governor of Fort William in Bengal]),³ fail to appear before the said Council at the time and place mentioned in the summons, or

shall refuse to make oath or affirmation as required, or

shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or

shall refuse or fail, without reasonable cause (to be allowed by the said [Governor of Fort William in Bengal]),³ to produce to the said Council any book, deed or writing in his possession, power or control as by the said Council he shall be required to produce (whether mentioned in the summons or not),

the [Governor of Fort William in Bengal]³ shall, on the report of the said Council that such failure or refusal has taken place, have the power, by warrant under his hand, to direct that such person be apprehended and committed to close custody in a place and for a time specified in the warrant, unless he shall in the meantime comply, to the satisfaction of the said Council, with such requisitions as have been made on him touching his examination.

The warrant may be directed to any officer appointed in that behalf by the [Governor of Fort William in Bengal].¹

Expenses of
witnesses.

4. Whenever a summons is issued for the attendance of a witness under this Act, the [Governor of Fort William in Bengal]³ may, if he thinks fit, order such witness to receive from the Collector or Commissioner of the district or division in which the witness resides such expenses as he would have

¹ The words in square brackets were substituted for the words "Lieutenant-Governor" by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5 and Sch. III, in Vol. III of this Code.

² As to oaths and affirmations, see the Indian Oaths Act, 1873 (19 of 1873), in General Acts, 1869-73, Bd. 1909 p. 385.

³ The words in square brackets were substituted for the words "Lieutenant-Governor of Bengal" by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5 and Sch. III, in Vol. III of this Code.

of 1866.]

(Secs. 5, 6.)

been entitled to receive if summoned as a witness before the principal Court of original jurisdiction within the limits of which he shall be residing.

5. The provisions of sections 21 and 32 of Act 2 of 1855¹ (for the further improvement of the Law of Evidence) shall extend to witnesses examined before the said Council of the [Governor of Fort William in Bengal].²

Provisions of sections 21 and 32 of Act 2 of 1855 extended.

6. Throughout this Act, unless the contrary appears from the context,—

Interpretation.

the word “Council” shall include any committee of the whole Council, and any Select Committee of the Council of the [Governor of Fort William in Bengal]³ for making Laws and Regulations.

“Council.”

¹ These sections are as follow :—

“21. A witness whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

“32. A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate, such witness, or that it will expose, or tend, directly or indirectly, to expose, such witness to a penalty or forfeiture of any kind.”

Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.”

Act 2 of 1855 has been repealed by the Indian Evidence Act, 1872 (1 of 1872,—printed in General Acts, 1868-78, Ed. 1909, p. 200), which does not expressly save references to the first-mentioned Act; but this reference to the Act of 1855 appears to be unaffected by the repeal—see Craies on Statute Law, 1911, pages 822, 323.

² The words in square brackets were substituted for the words “Lieutenant-Governor of Bengal” by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5 and Sch. III, in Vol. III of this Code.

³ Words as to number and gender, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code.

BENGAL ACT 4 OF 1866

(THE CALCUTTA POLICE ACT, 1866).

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59. Licenses for conveying and removing gunpowder.
60. Commissioner may issue warrant to search for explosive substance.
61. Act not to apply to Government explosive substances.
62. Power of Commissioner to make rules for regulation of traffic, etc.
- 62A. Power of Commissioner and other officers to give directions to the public.
- 62B. Enforcement of orders issued under the last foregoing section.
- 62C. Power to give directions to prevent disorder at places of public amusement, etc.
- 63 to 65. (*Repealed.*)
66. Penalty for committing in public streets the offence of—
 - (1) driving, etc., elephant or camel ;
 - (2) driving vehicle without sufficient light ;
 - (3) driving on other than left side of road ;
 - (4) exposing for show or training horses, or cleaning conveyances, in places not allowed ;
 - (4a) exposing or keeping articles so as to cause obstruction ;
 - (5) to (9) (*Repealed.*)
 - (10) driving cart with insufficiently greased wheels ;
 - (11) lighting fires and discharging guns, fireworks, etc. ;
 - (12) (*Repealed.*)
 - (13) affixing bills, or otherwise defacing houses, etc. ;
 - (14) bathing, etc., in public street or aqueduct ;
 - (15) obstructing persons at bathing places.
67. (*Repealed.*)
68. Penalty for drunkenness or riotous or indecent behaviour in public.
- 68A. Penalty for committing a nuisance in streets.
- 68B. Penalty for solicitation in a public place.
69. (*Repealed.*)
70. Beggars.
- 70A. Refuges for reception of certain classes of convicted beggars.
71. Stray animals to be impounded and sold unless redeemed within ten days.
72. Power to arrest without warrant.
- 72A. Arrest without warrant for solicitation.

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SECTION.

- 73. (*Repealed.*)
- 74. Apprehension of offenders by private individuals.
- 75. Penalty for assaulting or resisting person apprehending under section 74.
- 76. Detention of persons taken into custody by police without warrant.
- 77. Power to take recognizances at police-station.
- 78. Condition of recognizance.
- 78A. Power of Commissioner of Police to require attendance and obtain statements of witnesses.
- 79. On suspicion of goods being stolen or unlawfully obtained, Commissioner may grant search-warrant.
- 80. Power to search houses for stolen property without warrant.
- 80A. Power to search for persons wrongfully confined.
- 80B. When officer in charge of police-station may require another to issue search-warrant.
- 80C. Procedure in making searches.
- 81. Seizure of stolen property.
- 82 to 94. (*Repealed.*)
- 95. If Magistrate certifies non-appearance of person pursuant to recognizance, sum acknowledged may be recovered as fine.
- 96 to 98. (*Repealed.*)
- 99. *Clause 1.*—Limitation of actions.
Notice of actions.
Clause 2.—Plea.
Tender of amends.
Costs.
- 100. Police to take charge of unclaimed movable property.
- 101. Disposal of such property.
- 102. Stray dogs to be killed at certain appointed periods.
- 102A. Public notices how to be given.
- 102B. Consent, etc., of Commissioner of Police or Police officer how to be proved.
- 102C. Stamping of signature.
- 103. (*Repealed.*)

SCHEDULE OF FORMS.

- Form A.
- Form B. (*Repealed.*)

BENGAL ACT 4 OF 1866

(THE CALCUTTA POLICE ACT, 1866).¹

(28th March, 1866.)

An Act to amend and consolidate the provisions of Act 13 of 1856 (for regulating the Police of the towns of Calcutta, Madras and Bombay) and of Act 48 of 1860 (to amend Act 13 of 1856).

Whereas it is expedient to amend and consolidate the provisions of Act 13 of 1856 and of Act 48 of 1860, so far as the said Acts are applicable to the town of Calcutta; It is enacted as follows:—

Preamble.

1. This Act may be cited as the Calcutta Police Act, 1866.

Short title.

2. (*Repeal of Acts 13 of 1856 and 48 of 1860 in Calcutta*).
Rev. by the Repealing Act, 1873 (12 of 1873).

3. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

Interpretation.

the words "town of Calcutta" shall include all places within the local limits of the jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal;

the word "Magistrate" shall mean any Magistrate of Police acting for the said town;

the word "property" shall include any chattle, money or valuable security;

the word "month" shall mean calendar month;

the word "oath" shall include any affirmation or declaration lawfully substituted for an oath;

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1865, page 2092.

LOCAL EXTENT.—This Act extends only to the town of Calcutta—see the preamble and ss. 1, 3 and 4.

OTHER ENACTMENTS.—For other enactments relating to the Calcutta Police, see—

(1) the Calcutta Port Act, 1890 (Ben. Act 3 of 1890), ss. 129 to 184 and 140, *post*, pp. 1063, 1064 and 1066;

(2) the Licensed Warehouse and Fire-Brigade Act, 1898 (Ben. Act 1 of 1898), in Vol. III of this Code;

(3) the Protection of Muhammadan Pilgrims Act, 1896 (Ben. Act 1 of 1896), in Vol. III of this Code;

(4) the Calcutta Police Act, 1898 (Ben. Act 1 of 1898), in Vol. III of this Code;

(5) the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), ss. 643, 644, in Vol. III of this Code; and

(6) the Calcutta Improvement Act, 1911 (Ben. Act 5 of 1911), s. 167, in Vol. III of this Code.

² Now "Presidency Magistrate"—see the Code of Criminal Procedure, 1898 (5 of 1898), s. 3 (2), in General Acts, 1898-1903, Ed. 1909, p. 40.

(Sec. 3.)

¹ "gaming" includes wagering or betting [except wagering or betting upon a horse-race, when such wagering or betting takes place—

- (a) on the day on which such race is to be run, and
- (b) in an enclosure which the Stewards controlling such race have, with the sanction of the Local Government, set apart for the purpose],

but does not include a lottery;

¹ "instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming; and

¹ "common gaming-house" means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever;

the word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats and swine;

¹ the phrases "investigation," "offence," "cognizable offence" and "non-cognizable offence" shall respectively have the meanings assigned thereto by the Code of Criminal Procedure, 1898⁴;

5 of 1898.

¹ "officer in charge of a police-station" shall include, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the Police-officer present at the station-house who is next in rank to such officer and is above the rank of constable;

¹ "explosive substance" shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement;

¹ These definitions of "gaming," "instruments of gaming" and "common gaming-house" in s. 3 were substituted for the former definitions by the Bengal Public Gambling (Amendment) Act, 1918 (Ben. Act 4 of 1918), s. 2, in Vol. III of this Code.

² Clauses as to number and gender, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code. Act 1 of 1908 is now known as the Amending Act, 1908—vide Act 16 of 1914, Sec. II.

³ These definitions in s. 3 were added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 3, in Vol. III of this Code.

⁴ Act 5 of 1898 is printed in General Acts, 1898-1908, Ed. 1909, p. 40.

⁵ This definition in s. 3, was added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 4, in Vol. III of this Code.

of 1866.]

(Sec. 3.)

“place of public amusement” shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same, is provided, and to which the public are admitted, either on payment of money or with the intention that money may be collected from those admitted, otherwise than for a *bond fide* charitable purpose; and shall include a race-course, circus, theatre, music-hall, billiard-room, bagetelle-room, gymnasium and fencing-school;

“place of public entertainment” shall mean any place, whether enclosed or open, to which the public are admitted, and where any kind of food, drink or drug is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in, or managing, such place; and shall include a refreshment-room, eating-house, coffee-house, tea-shop, liquor-house, boarding-house, lodging-house, hotel, restaurant, tavern, wine-shop, beer-shop, spirit-shop, *arrack*-shop, toddy-shop, *ganja*-shop, *bhang*-shop, and opium-shop;

“Police-officer” shall mean any member of the Calcutta Police-force, and shall include the Commissioner of Police and a Deputy Commissioner of Police;

“police-station” shall mean any post or place declared, generally or specially, by the Lieutenant-Governor¹ to be a police-station, and shall include any local area specified by the Lieutenant-Governor² in this behalf;

“public place” shall include the banks of the river, the docks, the jetties, warehouses to which the public have access, every public building and monument and the precincts thereof, and all places accessible to the public for drawing water, washing or bathing, or for purposes of recreation;

“street” shall mean any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, to which the public have, permanently or temporarily, a right of access;

“vehicle” shall include any locomotive, automobile, tram-car, carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-cycle or other wheeled conveyance of any description capable of being used on the streets.

4. The administration of the police in the town of Calcutta shall be vested in an officer to be styled the Commissioner of Police for such town, who shall from time to time be appointed by the Lieutenant-Governor of Bengal³ and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow.

Appointment
and removal
of Commissioner
of Police.

¹ These definitions were added by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 4, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1905 (7 of 1905), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 5-9.)

Appointment
of deputies
to Commis-
sioner.

5. The said Lieutenant-Governor¹ may from time to time appoint² one or more deputies to the Commissioner of Police, who shall be competent to perform any of the duties assigned to that officer under his orders.

The Deputy Commissioner may be removed at any time by order of the said Lieutenant-Governor¹.

Commissioner
shall not
ordinarily
be a Magis-
trate.

6. The Commissioner of Police shall not ordinarily be a Magistrate of Police under this Act,³ but, with the sanction of the Governor General of India in Council, may be appointed to that office when the said Lieutenant-Governor¹ for special reasons may deem it expedient.

Commissioner
to be Justice
of the Peace,
but to act
only in
certain
cases.

7. The Commissioner of Police shall be appointed a Justice of the Peace⁴, but unless he is vested with the jurisdiction of a Magistrate of Police,⁵ he shall act as a Justice only so far as may be necessary for the preservation of the peace, the prevention of crimes, and the detection, apprehension and detention of offenders in order to their being brought before a Magistrate of Police,⁶ and so far as may be necessary for the performance of the duties assigned to the Commissioner by this Act.

The deputies to the Commissioner of Police may be appointed Justices of the Peace,⁴ and, if so appointed, shall act in that capacity subject to the above restriction.

Constitution
of Police-
force.

8. For the said town of Calcutta there shall be a Police-force, which shall consist of such number of officers⁷ and shall be otherwise constituted in such manner as shall be from time to time ordered⁸ by the said Lieutenant-Governor¹.

Police to
be under
control of
Commissioner
Rules for
government
of police
to be
made by
Commissioner
and
approved
by Govern-
ment.

9. The Police-force shall be under the exclusive direction and control of the Commissioner of Police, who may from time to time, subject to the approbation of the said Lieutenant-Governor¹ frame such orders and regulations⁹ as he shall deem expedient relative to the general government of the force, the places of residence, the classification, rank, distribution and particular service of the several members thereof, their inspection, the description of arms, accoutrements and other necessities to be furnished to them, and all such other orders and

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Schedule D, item 1, in Vol. I of this Code.

² For an order made under section 5, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ This reference is to section 22, which has been repealed—see post, p. 97. Presidency Magistrates are now appointed under the Code of Criminal Procedure, 1898 (5 of 1898), s. 18—see General Acts, 1898-03, Ed. 1909, p. 48.

⁴ Justices of the Peace of the Presidency towns are now appointed under the Code of Criminal Procedure, 1898 (5 of 1898), s. 28—see General Acts 1898-03, Ed. 1909, p. 50.

⁵ Now "Presidency Magistrate"—see the Code of Criminal Procedure, 1898 (5 of 1898), s. 8(f) in General Acts, 1898-03, Ed. 1909, p. 40.

⁶ The words "and man," in s. 8, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

⁷ For an order made under s. 8, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁸ The words "with the sanction of the Governor General of India in Council," in s. 8, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and are omitted.

⁹ For some regulations made under section 9—see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Secs. 10, 10A)

regulations relative to the said Police-force as the said Commissioner shall from time to time deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

10. The appointment of the members of the Police-force shall rest with the Commissioner of Police; and he may at any time suspend or dismiss any member of the force whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Appointment
etc., of
police to
rest with
Commissioner

10A. (1) It shall be the duty of every Police-officer—

Duties of
police-
officers

- (a) promptly to serve every summons and obey and execute every warrant or other order lawfully issued to him by competent authority, and to endeavour by all lawful means to give effect to the lawful commands of his superiors;
- (b) to the best of his ability, to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors as are best calculated to bring offenders to justice or to prevent the commission of cognizable offences, or the commission of non-cognizable offences within his view;
- (c) to the best of his ability to prevent the commission of public nuisances;
- (d) to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension there is sufficient reason;
- (e) to aid any other Police-officer, when called on by him or in case of need in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided;
- (f) to discharge such duties as are imposed upon him by any law for the time being in force;
- (g) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear to be dangerous or to be incapable of taking care of themselves;
- (h) to take prompt measures to procure necessary help for any person under arrest or in custody who is wounded or sick, and, while guarding or conducting any such person, to have due regard to his condition;
- (i) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody;

¹ Section 10A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1919 (Ben. Act 2 of 1919), s. 5, in Vol. III of this Code.

(Secs. 11-18.)

- (f) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance;
- (k) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness;
- (l) to use his best endeavours—
 - (i) to prevent any loss or damage by fire, and
 - (ii) to avert any accident or danger to the public;
- (m) to regulate and control the traffic in the streets, to prevent obstruction therein, and to the best of his ability to prevent the infraction of any rule or order made under this Act, or under any other law for the time being in force for observance by the public in or near the streets;
- (n) to keep order in the streets, and at and within public bathing, washing and landing places, fairs and all other places of public resort, and in the neighbourhood of places of public worship during the time of public worship;
- (o) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry-boats, and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat; and
- (p) to perform all duties imposed on him by rules for the time being in force under this Act, in the manner and subject to the conditions therein prescribed.

(2) All persons shall be bound to conform to the reasonable directions of a Police-officer given in fulfilment of any of the said duties.

(3) A Police-officer may restrain or remove any person resisting, or refusing or omitting to conform to, any such direction as aforesaid.

Power to fine members of Police-force.

11. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police-force may be fined by the Commissioner in any sum not exceeding one-half of his monthly pay.

12. (*Additional penalties for neglect of duty, etc.*). *Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.*

Members to receive certificates vesting them with powers of Police-officer.

13. Every member of the Police-force shall receive on his enrolment a certificate (A), under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions and privileges of a 'Police-officer'.

¹ The words "Police-officer" in s. 13 were substituted for the word "Constable" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 6, in Vol. III of this Code.

POLICE ACT, 1861

(Secs. 13A-13C.)

Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the force.

13A. The Commissioner or a Deputy Commissioner of Police shall not, without the permission of the Lieutenant-Governor¹ and a Police-officer of lower rank than that of Deputy Commissioner shall not, without the permission of the Commissioner of Police,

Police-officers prohibited from other employment.

either as principal or agent,—

- (a) engage in any trade, or
- (b) be in any way concerned in the purchase or sale of any immovable property within the town or suburbs of Calcutta or of any interest therein, or
- (c) hold any office or practise any profession or engage in any employment whatever other than his office or duties as such Police-officer.

13B. Any Police-officer who—

- (a) contravenes any provision of the last foregoing section, or
- (b) is guilty of cowardice, or
- (c) is guilty of any wilful breach or neglect of any provision of law or of any rule or order which it is his duty as such Police-officer to observe or obey, or
- (d) is guilty of any violation of duty for which no punishment is expressly provided by any other law for the time being in force,

Offences by Police-officers.

shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees and which may be deducted from any salary due to him, or to both.

13C. Any Police-officer who—

- (a) without lawful authority or reasonable cause, enters or searches, or causes to be entered or searched, any building, vessel, tent or place, or
- (b) vexatiously and unnecessarily seizes the property of any person, or
- (c) vexatiously and unnecessarily detains, searches or arrests any person, or
- (d) vexatiously and unnecessarily delays forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, or
- (e) offers any unnecessary personal violence to any person, in his custody, or

Vexatious entry, search, seizure, arrest, detention, etc., by Police-officers.

¹ Sections 13A, 13B and 13C were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 7, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Item-1, in Vol. I of this Code.

(Secs. 14-17.)

(f) holds out to an accused person any threat or promise not warranted by law,

shall be liable to imprisonment, with or without hard labour, for a term which may extend to six months, or to fine which may extend to five hundred rupees, or to both.

Members not
to resign
without leave
or notice.

14. No member of the Police-force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention, if a member of the mounted branch of the said force, and two months' notice if a member of any other branch;

and every member of the said force who shall so resign or withdraw himself without such leave or notice shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him, and, on the sentence of a Magistrate, if such Magistrate shall think fit, to pay a fine not exceeding fifty rupees, or to be imprisoned, with or without hard labour, for any term not exceeding two months.

False state-
ment to
obtain
employment
or release.

14A. Any person who knowingly makes a false statement or uses a false document, for the purpose of obtaining for himself or any other person employment or release from employment as a Police-officer, shall be liable to imprisonment, with or without hard labour, for a term which may extend to three months, or to fine which may extend to one hundred rupees, or to both.

Penalty for
dismissed
members not
delivering up
clothing,
accoutre-
ments, etc.

15. Every member of the Police-force who shall be dismissed from, or shall cease to hold and exercise, his office and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements and other necessities which may have been supplied to him for the execution of his duty, to the Commissioner, or to such person, and at such time and place, as shall be directed by the said Commissioner, shall be liable on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding one month.

And it shall be lawful for the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments and other necessities which shall not be so delivered over, wherever the same may be found.

16. (*Police Superannuation Fund*). *Rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1905 (Ben. Act 6 of 1905).*

17. (*Disposal of proceeds of certain fines, etc.*). *Rep. by the Calcutta and Suburban Police (Superannuation Fund) Act, 1890 (Ben. Act 1 of 1890), s. 3.*

¹ Section 14A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 6, in Vol. III of this Code.

of 1866.]

(Secs. 18-24.)

18. The Commissioner of Police may, of his own authority, appoint special constables to assist the Police-force on any temporary emergency.

Power to appoint special constables.

19. Every special constable so appointed shall have the same power, privileges and protection, and shall be liable to perform the same duties, and shall be amenable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of Police.

Powers of special constables.

20. If any person, being appointed a special constable as aforesaid, shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate, to a fine not exceeding fifty rupees for every such neglect, refusal or disobedience.

Penalty for special constable neglecting or refusing to serve, etc.

21. The Commissioner of Police may also, if he shall think fit, on the application of any person showing the necessity of it, appoint any additional number of constables to keep the peace at any place within his jurisdiction, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such constable shall receive a certificate, by virtue of which he shall be vested with all the powers, privileges and duties of the constables belonging to the Police-force:

Appointment of additional constables on application of private individuals.

Provided that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the constables so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional constables; and all moneys received by the Commissioner for the payment of any such additional constables shall be accounted for by him.

Proviso.

21A. (1) Subject to the control of the Lieutenant-Governor or the Commissioner of Police shall, by order,—

Constitution of divisions and sections.

- (a) constitute such and so many Police divisions as he thinks fit, and
- (b) sub-divide such divisions into such and so many sections as he thinks fit, and
- (c) define the limits and extent of such divisions and sections.

(2) Every such order shall be published in the Calcutta Gazette and in the manner prescribed by this Act for the publication of public notices.

22 to 24. (*Police districts; appointment of Police Magistrates; attendance of Police-officers at Police-Courts; service*

¹ Section 21A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1912), s. 9, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 25-32.)

of Criminal process by Police-officers). *Rep. by the Presidency Magistrates Act, 1877 (4 of 1877).*

Execution of
warrants.

25. When any warrant shall be directed or delivered to any ¹ [officer of the Police-force], unless the authority issuing it shall order that it be executed without delay, such Police-officer shall deliver the same to the superior officer in charge of the division to which he belongs, who shall appoint, by endorsement thereon, one or more Police-officers to execute the same; and every Police-officer whose name shall be so endorsed thereon shall have the same powers, privileges and protection, as if the same had been originally directed to him by name.

26 to 28. (*Offences summarily triable by Magistrates; summary jurisdiction of two Magistrates; restitution of stolen property*). *Rep. by the Presidency Magistrates Act, 1877 (4 of 1877).*

Wrongfully
entering or
remaining in
or on build-
ing, land,
vehicle, etc.

29. Whoever, without satisfactory excuse, wilfully enters or remains in or upon any dwelling-house or private premises, or any land or ground attached thereto, or any ground, building, monument or structure belonging to the Government or appropriated to public purposes, or any vehicle, boat or vessel, shall, whether he causes any actual damage or not, be liable to fine which may extend to twenty rupees.

30, 31. (*Order of maintenance for wife or child; restoration of woman or child detained for unlawful purpose*). *Rep. by the Presidency Magistrates Act, 1877 (4 of 1877).*

Apprehension
and punish-
ment of re-
puted thieves,
etc.

32. Any person found between sunset and sunrise armed with any dangerous or offensive instrument whatsoever, with intent to commit any criminal act;

any reputed thief found between sunset and sunrise on board any vessel or boat, or lying or loitering in any bazar, street, * * * yard, thoroughfare, or other place who shall not give a satisfactory account of himself;

any person found between sunset and sunrise having his face covered or otherwise disguised, with intent to commit any offence;

any person found between sunset and sunrise in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and

any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking,

may be taken into custody by any Police-officer without a warrant, and shall be liable, on summary conviction before a

¹ These words in square brackets in s. 25 were substituted for the words "such officer" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, Vol. I of this Code.

² This section was substituted for the original s. 29 by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 10, in Vol. III of this Code.

³ The word "road" in s. 32 was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 24, and is omitted.

[1866.]

(Secs. 33-35.)

Magistrate, to imprisonment, with or without hard labour, for any term not exceeding three months.

30 Vict.,
p.
46 Vict.,
p.
5 of 1869.

33. Whoever, not being amenable to ¹[the Naval Discipline Act, the Army Act² or the Indian Articles of War³] takes, or attempts to take, into Fort William at Calcutta, or into any military barracks, guard-rooms or encampments within the town of Calcutta, or on board or alongside of any vessel of war belonging to Her Majesty in the port of the said town, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, without the license in writing of the Commanding Officer (unless such articles are intended for some person above the rank of non-commissioned officer), shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees, or imprisonment for any term not exceeding two months, with or without hard labour; and such liquors, drugs or preparations, and the vessels containing the same, shall be forfeited.

Penalty for taking spirits into barracks or on board vessels of war.

34. Whoever takes, or attempts to take, without due permission, or throws or attempts to throw, into any jail or house of correction, or into any public hospital, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any term not exceeding two months.

Penalty for taking spirits, etc. into jail.

35. Whoever, in the town of Calcutta, has or keeps any hotel, tavern, punch-house, ale-house, *arrack* or toddy-shop, or place for the sale or consumption of *ganja*, *chandu* or other preparations of opium, hemp or other intoxicating drug, plant or substance, or has or keeps any coffee-house, boarding-house, eating-house, lodging-house or other place of public resort and entertainment, wherein provisions, liquors or refreshments are sold or consumed (whether the same be kept or retailed therein or procured elsewhere),

Penalty for keeping hotel, etc., without license.

without a license, to be obtained in the manner hereinafter mentioned,

shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees for every day that the said house or place of entertainment is kept open, or the sale of provisions, liquors or refreshments is continued, without the necessary license:

¹ These words in square brackets in s. 33 were substituted for the words "the Articles of War for Her Majesty's Army or Her Majesty's Navy, or for the Native Officers or Soldiers in Her Majesty's Indian Army" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II in Vol. I of this Code.

² Printed in the Collection of Statutes relating to India, 1912, Vol. I, p. 530.

³ Act 5 of 1869 has been repealed and re-enacted by the Indian Army Act, 1911 (5 of 1911), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 3, General Acts, 1897-99, Ed. 1909, p. 572.

(Secs. 36-38.)

Provided that nothing in this Act shall apply to the sale in reasonable quantities of any drug, plant or substance in any chemist's or druggist's shop for medicinal purposes only.

Excise-
license
not to be
granted
without
certificate
of Commis-
sioner.

36. No license shall be granted under the provisions of Act 11 of 1849 (*for securing the Abkari-revenue of Calcutta*)¹ unless the person applying for such license shall produce a certificate from the Commissioner of Police stating that a license may be granted to him for the sale of spirituous liquors or intoxicating drugs, as the case may be, without risk or detriment to the preservation of peace and good order, and containing a full statement of such conditions as may have been imposed and shall have remained in force, under the provisions hereinafter contained, at the date when such license shall be granted.

No license so granted shall be renewable without a fresh certificate as aforesaid previously obtained from the Commissioner of Police.

² [The Commissioner of Police shall, in granting or refusing certificates under this section, be subject to the direction and control of the Lieutenant-Governor³].

Duration
and
conditions
of license.

37. It shall be competent to the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor², to limit, in such certificate as aforesaid, the period for which the license may be granted, and also to fix such conditions⁴ as he may deem necessary for securing the good behaviour of the keepers of the houses and places of entertainment as aforesaid, and for the prevention of drunkenness and disorder among the persons frequenting or using the same, and from time to time to vary such conditions, subject to such direction and control as aforesaid; and no license granted under the said Act 11 of 1849¹ shall be valid unless it shall contain such conditions as shall have been imposed and shall remain in force for the time being under this section.

Penalty for
keeping up
signboard
or notice
after
expiry of
license.

38. Whenever any license granted as aforesaid shall have ceased to have effect, it shall be lawful for the Commissioner of Police to order the person to whom such license shall have been granted to remove or cause to be removed any signboard or other notice which such person might have been theretofore bound, under the conditions⁴ of his said license,

¹ Act 11 of 1849 was repealed by the Bengal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878), which has been repealed and re-enacted by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), and this reference should now be construed as a reference to the latter Act—see s. 5 (2) thereof, in Vol. III of this Code.

² These words in square brackets in s. 36 were substituted for the words "subject to the order and control of the Lieutenant-Governor of Bengal" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 11, in Vol. III of this Code.

³ Now the Governor-in-Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 5, and Schedule D, item 1, in Vol. I of this Code.

⁴ For conditions prescribed under sections 37, 38 and 39, made for Bengal as constituted on the 31st March 1912, see the Bengal Excise Manual, 1910, Vol. II, pp. 96 to 100.

(Secs. 39-42.)

to affix on or near the house or place of public resort or entertainment for which such license had been granted; and any person who shall fail to obey any such order forthwith shall be liable, on summary conviction before a Magistrate, to a fine of ten rupees for every day thereafter during which he shall so fail.

39. The Commissioner of Police may, at his discretion, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid for which no license as is specified in the said Act 11 of 1849¹ is required upon such conditions,² to be inserted in every such license, as he, with the sanction of the said Lieutenant-Governor³ from time to time shall order, for securing the good behaviour of the keepers of the said houses or places of public resort or entertainment, and the prevention of drunkenness and disorder among the persons frequenting or using the same; and the said licenses may be granted by the said Commissioner for any time not exceeding one year.

Commissioner of Police may grant licenses for places for which no licenses are required under the Bengal Excise Act.

40. Any person committing a breach of any of the conditions which, in accordance with section 37 of this Act, are included in a license granted under the said Act 11 of 1849,¹ or of any of the conditions subject to which a license is given under section 39 of this Act, shall, on summary conviction before a Magistrate, be liable to a fine not exceeding one hundred rupees; and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been caused by the default or carelessness of the servant or other person in charge of the shop or place of sale.

Penalty for breach of conditions of license.

Any person so convicted shall also be liable to the forfeiture of his license, at the discretion of the Commissioner of Police, subject to the direction and control of the said Lieutenant-Governor³.

41. For every certificate or license granted by the Commissioner of Police under this Act there shall be levied a fee of two rupees.

Fee for certificate and license.

42. Whoever, in any place within the said town, wilfully harbours or conceals any seamen or apprentice belonging to any vessel other than a vessel of the Navy of the Queen; knowing, or having reason to believe, such seamen or apprentice to be a deserter, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding one hundred rupees.

Penalty for harbouring and concealing deserters from merchant-vessels.

¹ Act 11 of 1849 was repealed by the Bengal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878), which has been repealed and re-enacted by the Bengal Excise Act, 1909 (Ben. Act 5 of 1909), and this reference should now be construed as a reference to the latter Act—see s. 6 (f) thereof, in Vol. III of this Code.

² For conditions prescribed under sections 37, 38 and 39, made for Bengal as constituted on the 31st March 1912, see the Bengal Excise Manual, 1910, Vol. II. pp. 98 to 100.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

⁴ This section was substituted for the original s. 40 by the Calcutta Police (Amendment) Act, 1878 (Ben. Act 9 of 1878), s. 13, post, p. 207.

(Secs. 43, 43A.)

Power to order discontinuance of use of house, room or place as brothel, disorderly house or place of assignation in certain cases.

43. (1) When the Commissioner of Police receives information that any house, room or place

- (a) is used as a brothel or disorderly house, or for the purpose of carrying on the business of a common prostitute, in the vicinity of any educational institution or of any boarding-house, hostel or mess used or occupied by students, or of any place of public worship or recreation, or
- (b) is used as, or for the purpose, aforesaid to the annoyance of respectable inhabitants of the vicinity, or
- (c) is used as, or for the purpose, aforesaid on any main thoroughfare which has been notified¹ in this behalf by the Lieutenant-Governor² on the recommendation of the Municipal Commissioners, or
- (d) is used as a common place of assignation,

he may cause a notice to be served on the owner (if in occupation), lessor, manager or occupier of the house, room or place to appear before him either in person or by agent on a date to be fixed in such notice, and to show cause why, on the grounds to be stated in the notice, an order should not be passed for the discontinuance of such use of the house, room or place.

(2) If on the date fixed, or on any subsequent date to which the hearing may be adjourned, the Commissioner of Police is satisfied, after making such inquiry as he deems fit, that the house, room or place is used as described in clause (a), clause (b), clause (c) or clause (d) of sub-section (1), as the case may be, he may, by written order, direct such owner, lessor, manager or occupier, within a period to be stated in such order, not less than ten days from the date thereof, to discontinue such use.

(3) For the purposes of an inquiry under sub-section (2), the Commissioner of Police may depute a Deputy Commissioner of Police to make a local investigation, and may take into consideration his report thereon.

(4) The decision of the Commissioner of Police that a house, room or place is used in any manner, or for any purpose, described in clause (a), (b), (c) or (d) of sub-section (1) shall be final, and the legality or propriety thereof shall not be questioned in any trial or judicial proceeding in any Court.

Penalty for breach of order.

43A. If any person against whom an order has been passed by the Commissioner of Police under sub-section (2) of

¹ These sections 43, 43A; 43B and 43C were substituted for the original section 43 by Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 3 of 1907), s. 52, in Vol. II of this Code.

² For a list of notifications issued under section 43(c) up to the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and O. Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 43B-44.)

the preceding section uses the house, room or place in a manner which contravenes such order after the period stated therein, he shall be punished, on summary conviction before a Magistrate, with a fine which may extend to twenty-five rupees for every day after the expiration of the said period during which the breach continues and shall, on second conviction, be liable to simple imprisonment which may extend to three months in addition to, or in lieu of, any fine which is imposed under this section.

¹**43B.** Notwithstanding anything contained in any other law for the time being in force, the owner or lessor of any house, room or place, against the lessee, tenant or occupier of which an order has been passed directing the discontinuance of the use thereof as a brothel or disorderly house or for the purposes of carrying on the business of a common prostitute, or as a common place of assignation, shall be entitled forthwith to determine such lease, tenancy or occupation.

Power of owner or lessor to determine lease or tenancy.

¹**43C.** (1) The Commissioner of Police may, upon complaint made to him in writing by any person, by written order direct the discontinuance in any place of music or singing, the beating of drums or tom-toms, and the blowing or sounding of horns or other noisy instruments, if he is satisfied that the same is a nuisance and ought to be summarily stopped either on account of the dangerous illness of, or because it seriously interferes with the reasonable occupation of, any person resident or lawfully engaged in the neighbourhood :

Power to order discontinuance of music in certain cases.

Provided that in any case where the discontinuance of music or other sounds as aforesaid, is so ordered, it shall be lawful for a Magistrate, upon the complaint of any person aggrieved, and if satisfied that the order complained of is unreasonable under the circumstances, to alter or reverse such order as he deems fit, and the Commissioner of Police shall give effect to any such alteration or reversal :

Provided also that nothing in this section shall apply to music or other sounds as aforesaid in any place of public worship, or on the occasion of any religious observance or ceremony.

(2) Any person who contravenes an order of the Commissioner of Police passed under sub-section (1) shall be punished with a fine which may extend to one hundred rupees.

44. Whoever, being the owner, occupier, or having the use of any house, room or place, opens, keeps or uses the same as a common gaming-house,

Penalty for owning or keeping, or being employed in a gaming-house, etc.

and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be opened, kept or used by any other person as a common gaming-house,

(Secs 45-47.)

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room or place so opened, kept or used,

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room or place, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, or to imprisonment with or without hard labour, for any term not exceeding three months.

summary for
being found
playing in
gaming-house.

45. Whoever is found in any such house, room or place playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding two hundred rupees, or to imprisonment, with or without hard labour, for any term not exceeding one month ;

and any person found in any common gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Commissioner
or
Magistrate
may grant
warrants to
Police-officers
to enter gam-
ing-house for
search and
seizure.

46. If the Commissioner of Police or a Magistrate, upon information on oath, and after such inquiry as he may think necessary, has reason to believe that any house, room or place is used as a common gaming-house,

he may, by his warrant, give authority to any ¹[Sub-Inspector] or superior officer of police to enter, with such assistance as may be found necessary, by night or by day, and by force, if necessary, any such house, room or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming, and to seize all instruments of gaming, and all moneys and securities for money and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and to search all parts of the house, room or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody, and to seize and take possession of all instruments of gaming found upon such search.

Common gam-
ing-house.

47. When, under the provisions of the last preceding section, any cards, dice, gaming table or cloth, board or other instruments of gaming, are found in any house, room or place, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room or place is used as a common gaming-house and that the persons found therein were there present for the

¹ This word "Sub-Inspector" in s. 46, was substituted for the word "Inspector" by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 3 of 1907), s. 4, in Vol. III of this Code.

[1866.]

(Sec. 48-53.)

purpose of gaming, although no play was actually seen by the Police-officer or any of his assistants.

48. On conviction of any person for keeping any such common gaming-house or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all money seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

On conviction for keeping common gaming-house, instruments of gaming to be destroyed, etc.

49. It shall not be necessary, in order to convict any person of keeping a common gaming-house or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager or stake.

Proof of playing for stakes unnecessary.

50. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for anything done before that time in respect of such gaming.

Witnesses indemnified.

50A. Nothing in sections 44 to 50 shall apply to any game of mere skill, wherever played.

Exemption of games of mere skill. Portion of fine may be paid to informer.

51. The Magistrate may direct any portion * * * of any fine which shall be levied under sections 44 and 45 of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under section 48, to be paid to ³[any person who has contributed in any way to the conviction].

52. (*Gambling in the streets*). *Rep. by the Bengal Public Gambling Act, 1867 (Ben. Act 2 of 1867), s. 17. See now section 11 of that Act (post, p. 133), which is declared by section 16 thereof to apply to the town and suburbs of Calcutta.*

53. If any property answering the description set forth in any information which shall be given by any police-officer to any pawnbroker or dealer in second-hand property, or money-changer, regarding property stolen or fraudulently obtained, shall then be or thereafter come into the possession of, or be offered in pawn or for sale or change to, such pawnbroker,

Pawn and money-changer report stolen property under penalty for neglect.

¹ This new section 50A was inserted by the Bengal Public Gambling (Amendment) Act, 1918 (Ben. Act 8 of 1918), s. 8 (2), in Vol. III of this Code. Cf. Ben. Act 2 of 1867 s. 11A.

² The words "not exceeding one-fourth," in section 51, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), s. 5 (a), and are omitted.

³ These words in square brackets in section 51 were substituted for the words "an informer" by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), s. 5 (3) in Vol. III of this Code.

(Secs. 54-55.)

dealer or money-changer, he shall, without unnecessary delay, give information to that effect at the nearest police-station, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty, to be imposed by a Magistrate on summary conviction, not exceeding fifty rupees for each and every such neglect or offence:

Provided always that, in the case of wearing-apparel or other articles which it may be difficult for such pawnbroker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawnbroker or dealer.

Taking pledge
from child
under age of
fourteen.

54. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge or security for any sum of money lent or advanced to such child, or, without the knowledge and consent of the owner of the article, buys from any child any article whatsoever, shall be liable, on summary conviction before a Magistrate, to a penalty not exceeding one hundred rupees.

Possession
or dealing
with thing
stolen or
fraudulently
obtained.

54A. (1) Whoever has in his possession, or conveys in any manner, or offers for sale or pawn, anything which there is reason to believe to have been stolen or fraudulently obtained, shall, if he fails to account for such possession or act to the satisfaction of the Magistrate, be liable to fine which may extend to one hundred rupees, or to imprisonment, with or without hard labour, for a term which may extend to three months.

(2) If any person charged under sub-section (1) in respect of anything declares that he received such thing from some other person, or that he was employed as a carrier, agent or servant to convey such thing for some other person,

the Magistrate, after such further inquiry (if any) as he may deem necessary, may summon such other person, and any former or pretended purchaser or other person through whose possession such thing is alleged to have passed, to appear before him, and may examine such person and any witnesses who are produced to testify to such receipt, employment or possession;

and, if it appears to the Magistrate that any such person had possession of such thing and had reasonable cause to believe that it was stolen or fraudulently obtained, the Magistrate may punish him with fine which may extend to one hundred rupees, or with imprisonment, with or without hard labour, for a term which may extend to three months.

Standard
weights and
measures.

55. The Commissioner of Police shall keep in his office standard weights and measures¹; and weights and measures

¹ Section 54A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 18, in Vol. III of this Code.

² As to duty of Commissioner of Police under s. 55 to keep verified measures of the standard yard, standard foot and standard inch under the Measures of Length Act, 1890 (2 of 1890), see s. 7 of that Act in General Acts, 1887-97, Ed. 1899, p. 117.

of 1866.]

(Secs. 56-60.)

shall be held to be false when they do not agree with such standards.

56. Any Inspector or superior officer of police may enter any shop or premises for the purpose of inspecting the weights and measures, and instruments for weighing, kept or used therein, and may seize any weight, measure or instrument for weighing which he may have reason to believe is false.

Powers of Inspector, etc., to enter shops to seize false weights and measures.

57. Whoever manufactures gunpowder, or, without a license from the Commissioner of Police, has in his possession, in any house, shop, warehouse or other building, at any one time, a greater quantity of gunpowder than ten pounds, shall be liable, on a summary conviction before a Magistrate, to a fine not exceeding five hundred rupees, and also to forfeit such gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Manufacture or possession of gunpowder.

58. (*Licenses by Commissioner for sale and deposit of gunpowder, etc.*). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.

59. The Commissioner of Police may grant to any person a license for the transit and carrying of gunpowder from one place to another, in such manner and in such quantity as he may deem advisable; and any person, not being duly licensed in that behalf, who carries or conveys a greater quantity of gunpowder than one pound for one place to another, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees.

Licenses for conveying and removing gunpowder.

60. The Commissioner of Police, on credible information laid before him on oath¹,² [and reduced to writing], may issue his warrant authorizing a Police-officer³ [not below the rank of Sub-Inspector] to search⁴ any house, shop, magazine or other building or place in which he has reasonable ground to suspect that any⁵ [explosive substance] is manufactured, sold or kept, or any boat, carriage, cart or other vehicle in which any⁶ [explosive substance] may be suspected to be carried, or any person suspected of carrying the same, contrary to the provisions of this Act⁷ [or any other law or any rule made thereunder]; and all⁸ [explosive substance] found in such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Commissioner may issue warrant to search for explosive substance.

¹ As to oaths, see the Indian Oaths Act, 1878 (10 of 1878), in General Acts, 1868-78, Ed. 1909, p. 285.

² The words "and reduced to writing", in s. 60, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14 (1), in Vol. III of this Code.

³ The words "not below the rank of Sub-Inspector", in s. 60, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14 (2), in Vol. III of this Code.

⁴ The words "in the day time", in s. 60, were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14 (3), and are omitted.

⁵ The words "explosive substance", in s. 60, were substituted for the word "gunpowder" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14 (4), in Vol. III of this Code.

⁶ The words "or any other law or any rule made thereunder", in s. 60, were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 14 (5), in Vol. III of this Code.

(Secs. 61, 62.)

Act not to
apply to
Government
explosive
substances.

Power of
Commissioner
to make rules
for regulation
of traffic, etc.

61. None of the ¹[three] last preceding sections shall extend to any Government magazine or store, or building for the making or deposit of ²[explosive substances] under the authority or for the use of the Government, or to any ²[explosive substances] belonging to Her Majesty.

62. (1) With the previous sanction of the Lieutenant-Governor⁴ the Commissioner of Police may, after previous publication, from time to time make rules⁵—

- (a) for licensing and controlling persons offering themselves for employment at quays, wharves or landing-places for the carriage of passengers' baggage, and fixing and providing for the enforcement of a scale of charges for the labour of such persons when so employed;
- (b) regulating traffic of all kinds in streets and public places, and the use of streets and public places by persons riding, or driving, leading or riding in vehicles, or leading or accompanying cattle, or walking, so as to prevent danger, obstruction or inconvenience to the public;
- (c) regulating the conditions under which vehicles may remain standing in streets and public places, and the use of streets as halting places for vehicles or cattle;
- (d) prescribing the number and position of lights to be used on vehicles in streets and public places;
- (e) regulating and controlling the conveyance of timber, bamboos, scaffold-poles, ladders, iron girders, beams or bars, boilers or other unwieldy articles, or coal, or bricks, lime or other building materials, through the streets, and the route and hours for such conveyance;
- (f) for licensing, controlling, or, in view to preventing obstruction, inconvenience or annoyance to residents or passengers in the vicinity, prohibiting the playing of music in streets or in public places other than public buildings and the precincts thereof;
- (g) for licensing, controlling, or, in view to preventing risk, danger or damage to residents or passengers in the vicinity, prohibiting the carrying of any explosive substance in streets or public places:

¹ The word "three", in s. 61, was substituted for the word "four" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 16 (2), in Vol. III of this Code.

² The words "explosive substances", in s. 61, were substituted for the word "gunpowder" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 15 (2), in Vol. III of this Code.

³ These sections 62, 62A, 62B and 62C were substituted for the original s. 62 by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 16, in Vol. III of this Code.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D., item 1, in Vol. I of this Code.

⁵ For a list of rules made under s. 62 up to the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1866.]

(Sec. 62A.)

- (h) for controlling, in the interests of the public convenience and safety, the illumination of streets and public places, and the erection of structures on or over any street or public place, or against the exterior of any building abutting thereon, for the purposes of illumination;
- (i) for authorizing and regulating the removal, by the Police, of any structures referred to in clause (h) of this section, or any appliances for illumination placed on or over any street or public place or against the exterior of any building abutting thereon, when the Commissioner of Police considers that the same are likely to cause obstruction, danger or damage to residents or passengers in the vicinity; or
- (j) regulating the means of entrance and exit at places of public amusement, entertainment and assembly, and the lighting thereof when used by the public, and providing for the maintenance of public safety and the prevention of disturbance therein :

1 of 1878.

of 1881.

Provided that nothing in this section shall affect the provisions of the Indian Arms Act, 1878¹, or the Indian Explosives Act, 1884.²

(2) Any rules made under this section may, with the like sanction, be altered or rescinded by the Commissioner of Police after previous publication of the alteration or rescission.

(3) Every rule and alteration of a rule made under this section, and every rescission of any such rule, shall be published in the Calcutta Gazette and in the manner prescribed by this Act for the publication of public notices.

(4) Whoever contravenes any rule made under this section shall be liable,—

- (i) if the rule were made under clause (a), clause (b), clause (c) or clause (f) of sub-section (1)—to fine which may extend to fifty rupees, or
- (ii) if the rule were made under clause (d), clause (e) or clause (g) of sub-section (1)—to imprisonment, with or without hard labour, for a term which may extend to eight days, or to fine which may extend to fifty rupees, or to both, or
- (iii) if the rule were made under clause (h), clause (i) or clause (j) of sub-section (1)—to fine which may extend to one hundred rupees.

62A. (1) The Commissioner of Police, and, subject to the orders of the Commissioner of Police, every Police-officer of a rank not inferior to that of Sub-Inspector, may, with a

Power of Commissioner and other officers to give directions to the public.

¹ Printed in General Acts, 1868-78, Ed. 1909, page 690.

² Printed in General Acts, 1879-86, Ed. 1909, page 459.

³ See foot-note ² on p. 106, ante.

(Sec. 62A.)

view to securing the public safety or convenience, but not so as to contravene any rule made under the last foregoing section, or the provisions of any license granted under any such rule, give all such directions, either orally or in writing, as he may consider necessary to—

- (a) secure the orderly conduct of persons constituting processions and assemblies in streets ;
- (b) prescribe the routes by which and the times at which any such procession may, or may not, pass ;
- (c) prevent obstructions on the occasion of all processions and assemblies and in the neighbourhood of all places of worship during the time of public worship, and in all cases when any street or public place or place of public resort may be thronged or liable to be obstructed ;
- (d) keep order on and in all streets, quays, wharves and landing-places, and all other public places or places of public resort ; or
- (e) regulate and control music, the beating of drums, tom-toms and other instruments, and the blowing or sounding of horns or other noisy instruments, in any street or any public place other than public buildings and the precincts thereof.

(2) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor¹, whenever and for such time as he may consider it necessary to do so for the preservation of the public peace or public safety, by notification, publicly promulgated or addressed to individuals, prohibit—

- (i) the carrying of swords, spears, bludgeons, guns or other offensive weapons in any public place ;
- (ii) the carrying, collection and preparation of stones or other articles intended to be used as missiles, or of instruments or means of casting or impelling missiles ;
- (iii) the exhibition of persons, corpses, figures or effigies in any public place ; and
- (iv) the public utterance of cries, singing of songs or playing of music.

(3) The Commissioner of Police may also, subject to the control of the Lieutenant-Governor¹, whenever and for such time as he may consider necessary, by notification publicly promulgated or addressed to individuals, prohibit the delivery of public harangues, the use of gestures, or mimetic representations, and the preparation, exhibition or dissemination of

¹Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

of 1866.]

(Sec. 62B.)

pictures, symbols, placards or any other object or thing which—

- (i) may be of a nature to outrage morality or decency, or
- (ii) are likely, in the opinion of the Commissioner of Police to inflame religious animosity or hostility between different classes, or to incite to the commission of an offence, to a disturbance of the public peace, or to resistance to, or contempt of, the law or lawful authority.

(4) The Commissioner of Police may also, by order in writing, prohibit any procession or public assembly, whenever and for so long as he considers such prohibition to be necessary for the preservation of the public peace or public safety :

Provided that no such prohibition shall remain in force for more than seven days without the sanction of the Lieutenant-Governor.¹

(5) The Commissioner of Police may also, subject to the orders of the Lieutenant-Governor¹ by public notice, temporarily reserve for any public purpose any street or public place, and prohibit persons from entering the area so reserved save under such conditions as may be prescribed by the Commissioner of Police.

(6) Whoever contravenes any direction, order or prohibition lawfully given or made under this section shall be liable,—

- (i) if the direction, order or prohibition were given or made under sub-section (1) or sub-section (5)—to fine which may extend to one hundred rupees; or
- (ii) if the prohibition were made under sub-section (2), sub-section (3) or sub-section (4)—to imprisonment, with or without hard labour, for a term which may extend to one month, or to fine which may extend to one hundred rupees, or to both.

¹ 62B. (1) Whenever a notification, order in writing or public notice has been duly issued under sub-section (2), sub-section (3), sub-section (4) or sub-section (5) of the last foregoing section, then—

Enforcement of orders issued under the last foregoing section.

- (a) in the case of a notification issued under clause (i), clause (ii) or clause (iii) of the said sub-section (2), or in the case of a public notice issued under the said sub-section (5),—any Magistrate or any Police-officer, or

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

² See foot-note ² on p. 108, ante.

(Secs. 62 C-66.)

(b) in the case of a notification issued under clause (iv) of the said sub-section (2), or under the said sub-section (3) or, in the case of an order issued under the said sub-section (4),—any Magistrate or any Police-officer of or above the rank of Sub-Inspector,

may require any person acting or about to act contrary thereto to desist or to abstain from such action, and, in case of refusal or disobedience, may arrest such person.

(2) Any Magistrate or Police-officer acting under sub-section (1) may also seize anything used or about to be used in contravention of such notification, order or notice as aforesaid, and anything so seized shall be disposed of as any Magistrate having jurisdiction may order.

Power to give directions to prevent disorder at places of public amusement, etc.

62C. (1) For the purpose of preventing serious disorder or manifest and imminent danger to the persons assembled at any place of public amusement, or at any assembly or meeting to which the public are invited or which is open to the public, the Police-officer of highest rank, superior to that of Head-constable, who is present may, subject to such rules, directions and orders as may have lawfully made,

give such reasonable directions as he may think necessary as to the mode of admission of the public to, and for securing the peaceful and orderly conduct of persons attending at, such place, assembly or meeting;

and all persons shall be bound to conform to such directions.

(2) The Police shall have free access to every such place of public amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1) and to any direction given thereunder.

(3) Whoever disobeys or fails to conform to any lawful and reasonable direction given by any Police-officer under sub-section (1) shall be liable to fine which may extend to one hundred rupees.

63 to 65. (*Passenger-boats to be registered; power to refuse or cancel registration; penalty for neglecting or delaying to report accident attended with loss of life*). Rep. by Ben. Act 4 of 1879.

Penalty for committing in public streets the offence of—

66. Whoever, within such limits¹ as shall be from time to time defined by the Commissioner of Police, with the sanction of the said Lieutenant-Governor² in any * * * street, * * *

¹ See foot note ² on p. 108. *ante*.

² These have been defined to be "the limits of the town of Calcutta as declared by the Proclamation of the Governor General in Council on the 10th September, 1794, by virtue of the Statute 88 George 3, cap. 52, section 159"—see the Calcutta Gazette, 18th April, 1866, p. 882.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

⁴ The word "public", in s. 66, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and is omitted.

⁵ The word "road", in s. 66, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 84, and is omitted.

of 1866.]

(Sec. 66.)

thoroughfare or place of public resort, commits any of the following offences, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding fifty rupees :—

- (1) whoever drives, rides or leads any elephant or camel without permission from the Commissioner of Police; driving, etc., elephant or camel;
- (2) whoever drives any vehicle * * * ¹ at any time between three quarters of an hour after sunset and one hour before sunrise, without a sufficient light; driving vehicle without sufficient light;
- (3) whoever, without reasonable cause, shall drive a vehicle otherwise than on the left or near side of the road; driving on other than left side of road;
- (4) whoever exposes for show, hire or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary, or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner; exposing for show or training horses, or cleaning conveyances, in places not allowed;
- * (4a) whoever exposes or keeps any article so as to cause obstruction in any public thoroughfare; exposing or keeping articles so as to cause obstruction;
- (5) to (9) *(negligence in driving cattle; leaving cart, etc., without control; obstructing road or thoroughfare by carriage, etc.; obstructing foot-way; beating drum, tom-tom, etc). Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.*
- (10) whoever, by driving a hackery or cart with insufficiently-greased wheels, shall create a noise which is reasonably calculated to cause annoyance to persons frequenting or residing near the thoroughfare in which such hackery or cart is driven; driving cart with insufficiently-greased wheels;
- (11) whoever sets fire to or burns any straw or other matter, or lights any bon-fire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon, in or near any * * * street * * * or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of Police; lighting fires and discharging guns, fireworks, etc.

¹ The words "of any description", in s. 66 (2), were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and are omitted.

² The words "except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary", in s. 66 (2), were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and are omitted.

³ The words "carriage, cart or other", in s. 66 (3), were repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and are omitted.

⁴ Clause (4a) was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 17, in Vol. III of this Code.

⁵ The word "public", in s. 66 (11), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and is omitted.

⁶ The word "road", in s. 66 (11), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34, and is omitted.

(Secs. 67-68B.)

(12) (*illuminations*). *Rep. by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 34.*

affixing bills,
or otherwise
defacing
houses, etc.;

(13) whoever, without the consent of the owner or occupier, affixes any bill or notice, or any paper, against or upon any building, wall, ¹[tree, fence, post, pole or other erection], or writes upon, defaces or marks any such building, wall, ¹[tree, fence, post, pole or other erection] with chalk or paint, or in any way whatsoever;

bathing, etc.,
in public
street or aqueduct;

(14) whoever bathes or washes himself in any * * * street or in, upon or by the side of any public tank, reservoir or aqueduct, not being a place set apart for such purpose;

obstructing
persons at
bathing-
places.

(15) whoever obstructs or incommodes a person bathing at any place set apart as a bathing-place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing * * * cattle or dogs, at or near such place, or in any other way.

67. (*Cruelty to animals*). *Rep. by the Bengal Cruelty to Animals Act, 1869 (Ben. Act 1 of 1869), s. 8.*

Penalty for
drunkenness,
or riotous or
indecent beha-
viour, in
public.

68. Whoever is found drunk and is incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any public street or thoroughfare, or in any place of public amusement or resort, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding twenty rupees, or to imprisonment, with or without hard labour, for a term not exceeding eight days.

Penalty for
committing a
nuisance in
streets.

68A. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself, in, or by the side of, or near to, any public street or thoroughfare or place, shall be liable, on summary conviction before a Magistrate, to a fine not exceeding ten rupees, or, in default thereof, to imprisonment, with or without hard labour, for a term not exceeding three days.

Penalty for
solicitation in
a public
place.

68B. Whoever, in a public place, solicits any person to immorality to the annoyance of the person solicited or of any two or more of the inhabitants or passers-by, shall be liable, on

¹ These words in square brackets in clause (13) of s. 66 were substituted for the words "or fence" by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act 8 of 1907), s. 7, in Vol. III of this Code.

² The word "public," in s. 66 (14), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 84, and is omitted.

³ The word "houses," in s. 66 (13), was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 84, and is omitted.

⁴ This section was substituted for the original s. 68 by the Calcutta and Suburban Police (Amendment) Act, 1886 (Ben. Act 2 of 1886), s. 2, post, p. 977.

⁵ Section 68A was added by the Calcutta and Suburban Police (Amendment) Act, 1886 (Ben. Act 2 of 1886), s. 2, post, p. 977.

⁶ Section 68B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1898 (Ben. Act 2 of 1898), s. 2, in Vol. III of this Code.

of 1886.)

(Secs. 69-71.)

summary conviction before a Magistrate, to a fine not exceeding fifty rupees, or to imprisonment, with or without hard labour, for any period not exceeding eight days.

69. (*Penalty for committing a nuisance in streets*). Rep. by the *Presidency Magistrate's Act, 1877* (4 of 1877).

70. Whoever in any public * * * street, thoroughfare or place begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with the object of exciting charity or of obtaining alms; Beggars.

or whoever seeks for or obtains alms by means of any false statement or pretences,

shall be liable, on summary conviction before a Magistrate, to imprisonment, with or without hard labour, for any term not exceeding one month.

70A. (1) The Lieutenant-Governor may, by notification, in the Calcutta Gazette, declare any institution, situated either in the town of Calcutta or in the suburbs thereof, to be a Refuge for the reception of aged, infirm or incurably diseased persons convicted and sentenced to imprisonment under section 70; Refugees for reception of certain classes of convicted beggars.

and may, by like notification, cancel any such declaration.

(2) When any such person is so convicted and sentenced to imprisonment for any term, the Magistrate may, by written order, direct that he be taken to, and detained for the said term in, any Refuge notified under sub-section (1), instead of being imprisoned.

(3) If any such person escapes, before the expiration of the said term, from a Refuge to which he has been so taken, the Magistrate may cancel the order made under sub-section (1), and may direct that the said person shall be imprisoned, with or without hard labour, for the unexpired portion of the said term.

71. It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police-officers, to seize all cattle or other animals found straying upon the * * * streets or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be from time to time appointed by the Commissioner of Police; Stray animals to be impounded and sold unless redeemed within ten days.

¹ The word "road", in s. 70, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 34, and is omitted.

² Section 70A (1) was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 18, in Vol. III of this Code.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

⁴ For a notification issued under section 70A, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

⁵ Sub-sections (2) and (3) of s. 70A were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 20, in Vol. III of this Code.

⁶ The word "roads," in s. 71, was repealed by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 34, and is omitted.

(Sec. 72.)

and if such animals shall not be respectively redeemed by the owners of the same within ten days after being so impounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound the fee of eight annas for every goat, sheep or hog, and one rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner.

such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale, shall be retained by the said Commissioner and credited to any fund applicable to police purposes

Power to
arrest without
warrant.

¹72. (1) Subject to the restrictions imposed by clause (b) of sub-section (1) of section 62B in the case of offences there referred to, any Police-officer may arrest without a warrant any person committing in his presence in any street or public place any offence punishable under—

- (a) any section of this Act other than section 68B, or
- (b) any rule made under this Act, or
- (c) any other law for the time being in force.

if such person,—

- (i) after being warned by a Police-officer, persists in committing such offence, or
- (ii) is unknown to such Police-officer and, when asked by such Police-officer to give his name and address, refuses to give the same, or gives a name or address which such Police-officer has reason to believe to be false or cannot then and there ascertain to be true, or
- (iii) is unknown to such Police-officer, and his name and address cannot be ascertained then and there, and he refuses to accompany the Police-officer to a police-station on being required so to do.

Explanation.—This sub-section does not restrict the exercise by any Police-officer of any power of arrest conferred upon him by any other law.

²(2) Should the true name and residence of any such person not be ascertained within twenty-four hours from the time of arrest, or should he fail to execute a recognizance for his appearance before a Magistrate, or, if so required, to furnish sureties, he shall forthwith be forwarded to a Magistrate, having jurisdiction.

¹ This section 72 (2) was substituted for the original s. 72 by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 21, in Vol. III of this Code.

² This sub-section (2) of s. 72 was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 23, in Vol. III of this Code.

of 1896.]

(Secs. 72A-78.)

72A. Any Police-officer above the rank of native constable and such other officer as the Local Government or the Commissioner of Police may specially appoint in that behalf, may, at the instance of any person aggrieved, arrest without warrant any person who, in his sight and in a public place, solicits any person to immorality to the annoyance of the person solicited or of two or more of the inhabitants or passers-by, if the name and address of such person be unknown to him and cannot be ascertained by him then and there.

Arrest without warrant for solicitor

73. (*Power to take into custody without warrant*). *Rep. by the Presidency Magistrates Act, 1877 (4 of 1877).*

74. Whoever commits an offence on or with respect to the person or property of another, or, in committing any of the offences described or referred to in this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him, and may be detained until he gives his name and address and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police-officer.

Apprehension of offenders by private individuals.

75. If any person lawfully apprehended under the last preceding section shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding two hundred rupees.

Penalty for assaulting or resisting person apprehending under section 74.

76. Every person taken into custody without a warrant by a Police-officer shall be taken to the ²[police-station] in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before a Magistrate.

Detention of persons taken into custody by police without warrant.

77. Whenever any person is brought to a ²[police-station] charged with any offence against this Act, . . . or whenever a person is in the custody of any Police-officer without a warrant, it shall be lawful for the officer in charge of such ²[police-station], or any superior officer of police, if he shall deem it prudent, to enlarge such person on his own recognizance, with or without sureties, conditioned as herein after mentioned.

Power to take recognizances at police-station.

78. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before the Magistrate at his next sitting;

Condition of recognizance.

¹Section 72A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 5, in Vol. III of this Code.

²The word "police-station" in ss. 76 and 77, were substituted for the word "station-house" by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 8 of 1910), s. 24, in Vol. III of this Code.

³The words and figures * or with any of the offences numbered 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 20, 21, 22, 23, 24 and 25 in section 26 of this Act, were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

(Sec. 78A.)

and all persons executing the said recognizance shall acknowledge themselves jointly and severally bound in the sum (not exceeding one thousand rupees) thereby acknowledged;

and the time and place of appearance shall be specified in the said recognizance, or in the condition thereof;

and the officer taking the recognizance shall enter in a book, to be kept for the purpose, the name, residence and occupation of the party, and his surety or sureties (if any) entering into such recognizance, together with the condition thereof and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

Power of
Commissioner
of Police
to require
attendance
and obtain
statements
of witnesses.

78A. (1) If, in the course of any investigation, the Commissioner of Police has reason to believe that a cognizable offence has been committed, he may, by order in writing, require the attendance, before himself or before any officer serving under him, not below the rank of Sub-Inspector, who is investigating a cognizable offence, of any person then being within the limits of the town or suburbs of Calcutta, or within thirty miles of such limits, who, from the information given or otherwise, appears to be acquainted with the facts or circumstances of the case; and such person shall attend as so required.

(2) The Commissioner of Police, or any officer aforesaid, may examine orally any person so attending, and may reduce into writing any statement made by him; and such person shall be bound to answer all questions relating to the case put to him by the Commissioner or such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

(3) The Commissioner of Police may, in any case, forward to the Superintendent of Police of the district in which any person, from whom any information is required relating to the facts or circumstances of the case under investigation, is believed to be, such questions and such statement as may be necessary for the purpose of obtaining the information desired; and such Superintendent shall, on receipt thereof, cause such person to be examined orally, and his statement to be reduced into writing, in the same manner and subject to the same provisions as if an investigation were being made into such offence in such district, and shall forward the statement reduced into writing to the Commissioner of Police.

(4) Subject to any rules made by the Lieutenant-Governor¹, with the previous sanction of the Governor General in Council, the Commissioner of Police may, if he thinks fit, order payment, on the part of the Government, of the reasonable

¹ Section 78A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Gen. Act 3 of 1910), s. 25, in Vol. LI of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. Part III; in Vol. I of this Code.

(Secs. 79, 80.)

expenses of any person residing in the town or suburbs of Calcutta who attends for the purposes of any investigation before himself or any other Police-officer under this section, and shall order payment as aforesaid of the reasonable expenses of any person not so residing who attends as aforesaid.

79. If information shall be given on oath to the Commissioner of Police * * * that there is reasonable cause for suspecting that anything stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building or other place, or any ship or vessel,

On suspicion of goods being stolen or unlawfully obtained, Commissioner may grant search-warrant.

the Commissioner * * *, by special warrant under his hand directed to any Police-officer, may cause such dwelling-house, building or other place, or ship or vessel, to be entered and searched at any time of the day, or by night, if power for that purpose be given by such warrant;

[provided that no such warrant shall authorize any Police-officer below the rank of Sub-Inspector to make any entry or search at night;]

and the said Commissioner * * *, if it shall appear to him necessary, may empower such Police-officer, with such assistants as may be found necessary (such officer having previously made known his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise, and if upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety; and moreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen or otherwise unlawfully obtained.

80. If information shall be given to any officer of police not below the rank of [Sub-Inspector] that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and he shall have good grounds for believing that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified:

Power to search houses for stolen property without warrant.

Provided always that a list of articles stolen or missing be delivered or taken down in writing, with a declaration

1, 2, 3 The words "or to a Magistrate," "or the Magistrate," and "or Magistrate," respectively, were repealed by the Presidency Magistrates Act, 1877 (4 of 1877), and are omitted.

4 These words in square brackets in s. 79 were inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act. 8 of 1910), s. 26, in Vol. III of this Code.

5 This word "Sub-Inspector" in section 80, was substituted for the word "Inspector" by the Calcutta and Suburban Police (Amendment) Act, 1907 (Ben. Act. 3 of 1907), s. 6, in Vol. III of this Code.

1A-80C.)

stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place; and provided, further, that the person who lost the goods, or his representative, accompany the officer in the search.

Power to
search for
persons
wrongfully
confined.

80A. If information is given on oath to the Commissioner of Police that any person is confined under such circumstances that the confinement amounts to an offence, and if it is for any reason impracticable to make an application to a Magistrate under section 100 or section 552 of the Code of Criminal Procedure, 1898², the Commissioner may issue a search-warrant to any Police-officer not below the rank of Sub-Inspector; and the officer to whom such warrant is directed may search for the person indicated in such warrant, in accordance with such directions as may be given therein; and the person, if found, shall immediately be taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

When officer
in charge of
police-station
may require
another to
issue search-
warrant.

80B. (1) An officer in charge of a police-station in the town of Calcutta may require any officer in charge of a police-station in any part of Bengal, whether within or without the town of Calcutta, to cause a search to be made in any place, in any case in which the former officer might cause such search to be made within the limits of his own station.

(2) Such officer, on being so required, shall proceed in accordance with the provisions of section 80 of this Act or section 165 of the Code of Criminal Procedure, 1898⁴, whichever is applicable, and shall forward the thing found (if any) to the officer at whose request the search was made.

Procedure in
making
searches.

80C. (1) Before any officer makes a search under this Act, he shall call upon two or more respectable persons to attend and witness the search.

(2) The search shall be made in the presence of such persons, and a list of all things seized in the course of the search, and of the places in which they are respectively found, shall be prepared by the said officer and signed by the said witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) The occupant of the place searched, or some person in his behalf, shall, in every instance, be permitted to attend during the search; and a copy of the list prepared under subsection (2) signed by the said witnesses, shall be delivered to such occupant or person at his request.

¹ Section 80A was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 27, in Vol. III of this Code.

² Sections 100 and 552 of Act 5 of 1898 are printed in General Acts, 1898-08, Ed. 1909, pp. 78 and 210, respectively.

³ Section 80B was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 28, in Vol. III of this Code.

⁴ Section 165 of Act 5 of 1898 is printed in General Acts, 1898-1908, Ed. 1909, p. 94.

⁵ Section 80C was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 29, in Vol. III of this Code.

(Secs. 81-98)

81. It shall be lawful for any Police-officer to seize any property or thing which may be found in the possession of any person, where the possession by such person of such property or thing creates a reasonable suspicion of the committal of an offence; and such seizure shall be forthwith reported to the Commissioner of Police who shall thereupon make such order respecting the custody of production of the property as he shall think proper.

Seizure of
stolen
property

82 to 94. (*Disposal of stolen property in custody of police; Magistrate's power to summon persons charged; summons how served; power to issue warrant; power to enforce attendance of witnesses; fees; power to order prisoners to be brought up; giving false evidence; power to adjourn hearing; power to award costs and amends; levy of fines; distress not unlawful for want of form*). Rep. by the Presidency Magistrates Act, 1877 (4 of 1877).

95. If any person, upon entering into such recognizance as is by this Act authorized to be taken, do not afterwards appear pursuant to such recognizance, the Magistrate before whom he ought to have appeared shall certify the fact of such non-appearance on the back of the recognizance, and thereupon the sum thereby acknowledged shall be recoverable in the manner provided by ¹ [sections 61 and 67 to 70 of the Indian Penal Code² and sections 386, 387 and 389 of the Code of Criminal Procedure, 1898,³ for the levying fines.

If Magistrate
certifies non-
appearance of
person
pursuant to
recognizance,
sum
acknowledged
may be
recovered as
fine.

96 to 98. (*Recognizances; form of judgment; grounds for quashing a conviction*). Rep. by the Presidency Magistrates Act, 1877 (4 of 1877).

99. *Clause 1.*—All actions and prosecutions against any person, which may be lawfully brought for anything done, or intended to be done, under the provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise;

Limitation of
action:

and notice in writing of such action, and of the causes thereof, shall be given to the defendant one month at least before the commencement of the action;

Notice of
actions.

and in every such action it shall be expressly alleged in the plaint that the act complained of was done maliciously and without reasonable or probable cause;

and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Clause 2.—The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon;

¹ These words and figures in square brackets, in s. 95 were substituted for the words "this Act" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

² Sections 61 and 67 to 70 of Act 45 of 1860 are printed in General Acts, 1884-67, Ed. 1900, pp. 200-203.

³ Sections 386, 387 and 389 of Act 5 of 1898 are printed in General Acts, 1898-1908, Ed. 1909, pp. 106, 161.

(Secs. 100, 101.)

Tender of
amends.

and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant;

Costs.

and if a verdict shall pass for the defendant, or the plaintiff shall become non-suit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases;

and, though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant unless the Judge, before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.

Police to take
charge of
unclaimed
movable
property.

¹ 100. (1) The Police shall, for the purpose of safe custody, take temporary charge of—

- (a) all unclaimed movable property found by them, and
- (b) all movable property found lying in any public street, if the owner or the person in charge of such property on being directed to remove the same, refuses or omits to do so within a reasonable time;

and may, for the said purpose, take temporary charge of any unclaimed movable property made over to them.

(2) Property of which the Police have taken charge under sub-section (1) shall be handed over to the Commissioner of Police.

Disposal of
of such
property.

¹ 101. (1) If the said property appears to have been left by person who has died intestate, and not to be under two hundred rupees in value, the Commissioner of Police shall communicate with the Administrator General, with a view to its being dealt with under the Administrator General's Act, 1874,² or any other law for the time being in force.

³ (2) In every other case the Commissioner of Police shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim thereto to appear before himself or some other officer whom he appoints in this behalf and establish his claim within six months from the date of such proclamation.

¹ These sections 100 and 101 were substituted for the original sections 100^a and 101 by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 30, in Vol. III of this Code.

² Act 3 of 1874 has been repealed and re-enacted by the Administrator General's Act, 1913 (3 of 1913).—See now the latter Act.

³ As to saving of these provisions from the operation of the General Succession Law, see the Administrator General's Act, 1913 (3 of 1913), s. 35 (2).

(Secs. 102-102B.)

(3) If the property, or any part thereof, is subject to speedy and natural decay, or consists of live-stock, or if the property appears to be of less value than five rupees, it may forthwith be sold by auction under the orders of the Commissioner of Police; and the net proceeds of such sale shall be dealt with in the same manner as is hereinafter provided for the disposal of the said property.

(4) The Commissioner of Police shall, on being satisfied of the title of any claimant to the possession or administration of any property referred to in sub-section (2), order the same to be delivered to him, after deduction or payment of the expenses properly incurred by the Police in the seizure and detention thereof.

(5) The Commissioner of Police may, at his discretion, before making any order under sub-section (4), take such security as he may think proper from the person to whom the said property is to be delivered; and nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of such property from the person to whom it may have been delivered pursuant to such order.

(6) If no person establishes his claim to such property within the period prescribed in sub-section (2), it shall be at the disposal of the Government; and the property, or such part thereof as has not already been sold under sub-section (3), may be sold by auction under orders of the Commissioner of Police.

102. It shall be lawful for the Commissioner of Police, by order in writing, to be affixed at the principal police-stations, and also to be published in some public newspaper, to appoint, from time to time, certain periods within which any dogs found straying in the streets or beyond the enclosures of the houses of the owner of such dogs may be destroyed.

Stray dogs to be killed at certain appointed periods.

102A. Any public notice required to be given under any of the provisions of this Act shall be in writing, shall be signed by the Commissioner of Police, and shall be published, in the locality to be affected thereby, by affixing copies thereof in conspicuous public places, or by proclaiming the same with beat of drum, or by advertising the same in such local newspapers, English or Vernacular, as the Commissioner of Police may deem fit, or by any two or more of these means and by any other means he may think suitable.

Public notices how to be given.

102B. Whenever under this Act or any rule made hereunder the doing or the omitting to do anything or the validity of anything depends upon the consent, approval, declaration, opinion or satisfaction of the Commissioner of Police or of any other Police-officer, a written document signed by the Commissioner of Police or by such officer, purporting to convey or set forth such consent, approval, declaration, opinion or satisfaction, shall be sufficient evidence thereof.

Consent, approval, declaration, opinion or satisfaction of Commissioner of Police or Police-officer how to be proved.

¹ Sections 102A and 102B were inserted by the Calcutta and Suburban Police (Amendment) Act 1930 (B.M. Act 8 of 1930), s. 21, in Vol. III of this Code.

(Secs. 102C, 103—Schedule of Forms.)

Stamping of
signature.

¹ 102C. Every license, written permission, notice, or other document [not being a summons or warrant or search-warrant, or a notification issued under sub-section (3) of section 62A, or an order made under sub-section (4) of that section, or an order made under section 78A], required by this Act, or any rule made hereunder, to bear the signature of the Commissioner of Police, shall be deemed to be properly signed if it bears a facsimile of his signature stamped thereon.

103. (*Foreign deserters*). *Rep. by the Indian Ports Act, 1875 (12 of 1875).*

SCHEDULE OF FORMS.

² FORM A—(*Referred to in section 13*).

A B has been appointed a member of the Calcutta Police force, and is vested with the powers, functions and privileges of a Police-officer.

CALCUTTA,

The 19 . Commissioner of Police.

FORM B—*Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

¹ Section 102C was inserted by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 2 of 1910), s. 22(1), in Vol. III of this Code.

² This Form was substituted for the original Form A by the Calcutta and Suburban Police (Amendment) Act, 1910 (Ben. Act 3 of 1910), s. 23, in Vol. III of this Code.

BENGAL ACT 7 OF 1866

(THE BENGAL EMBANKMENT ACT, 1866).

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SECTION.

1. Lands for embankments may be acquired under powers for acquiring land for public purposes.
2. Charging cost of land acquired, where lands of different owners benefited.
3. Mode of inquiry as to proportion chargeable to each estate.
4. Power to make award stating names of owners of lands benefited and proportion of cost payable.
No appeal from award, but one owner may recover from another not assessed or under-assessed.
5. Expense included in cost of acquiring land.
6. Expenses of sluice apportioned where lands of different owners benefited.
7. Disposal of lands no longer required for embankments.
8. Collector may delegate powers to Deputy Collector.
9. Act does not apply where obligation to provide land exists.
10. Interpretation.

BENGAL ACT 7 OF 1866

(THE BENGAL EMBANKMENT ACT, 1866).¹

(9th May, 1866.)

An Act to make better provision for the acquisition of land for embankments, and other matters relating thereto.

Whereas it is expedient to make better provision for the acquisition of land required for embankments, and for charging the expense thereof upon the owners of lands benefited thereby; Be it enacted :—

Preamble.

1. When it shall be necessary for any Collector to acquire land for the purpose of constructing any public embankment, or of extending or altering any embankment, the superintendence or charge whereof is vested in an officer of Government, the provisions of Act 6 of 1857,² passed by the Governor General of India in Council, entitled “an Act for the acquisition of land for public purposes,” or of any other Act for the time being in force relating to the acquisition of land for public purposes, shall extend and apply to the acquisition of such land for the purpose aforesaid, so far as the same shall be applicable;

Lands for embankments may be acquired under powers for acquiring land for public purposes.

and such Collector shall and may take and acquire such land, and assess compensation for the same, and do all other acts necessary for the acquisition thereof, by and under the powers and provisions of such Act or Acts so far as the same is or are applicable in that behalf; but no such declarations or orders by or on behalf of Government as are mentioned in sections 2 and 3 of the said Act 6 of 1857,² shall be necessary or required.

Any person to whom compensation has been awarded in respect of lands taken shall be entitled to receive the same

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1866, p. 308.

LOCAL EXTENT.—Since this Act contains no local extent clause it must be taken to have extended to the whole of the former Province of Bengal. It has, however, been repealed everywhere except in Orissa and the Sundarbans, by the Bengal Embankment Act, 1878 (Ben. Act 6 of 1878), parts of which are printed, post, p. 236.

The application of the Act is barred in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1906 (1 of 1906), s. 4 (2), printed in Vol. I of this Code.

The only portion of the present Presidency of Fort William in Bengal in which the Act is in force is the Sundarbans.

² Act 6 of 1857 was repealed by Act 10 of 1870, which again has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894). This reference should now be construed to refer to the latter Act—see s. 2 (2) thereof, in General Acts, 1867-97, Ed. 1909, p. 868.

(Secs. 2, 3.)

together with interest after the rate of *nine per centum per annum* from the time when the land was taken :

Provided that, notwithstanding anything contained in section 7, *clause 1*, of Act 32 of 1855¹ passed by the Governor General of India in Council, entitled "An Act relating to embankments," it shall not be obligatory upon the Collector to pay to any person, nor shall any person have a right to a civil suit for the recovery of, any money in respect of compensation for lands taken, where the same is payable as hereinafter provided by the persons whose lands are benefited, until and unless the Collector shall have received the same from such person.

Charging cost of land acquired, where lands of different owners benefited.

2. In cases where lands, the property of different owners, will in the opinion of the Collector derive benefit from the construction, alteration or extension of any public embankment, and it is necessary to acquire land for the purpose of such construction, alteration or extension, it shall be lawful for such Collector to charge the cost of such land and the expense attending its acquisition upon the persons so deriving such benefit, in such proportions as in his opinion shall be equivalent to the benefit derived by their lands respectively.

Before assessing such contribution the Collector shall cause a notice to be served on each of such persons, in which it shall be stated what land is being taken, and the purpose for which it is required, and that the lands of such person will derive benefit from the execution of the works, and giving him notice that an inquiry will be held, at a day and place to be named, for the purpose of apportioning amongst the persons whose lands will be benefited by the intended works the cost of the land and the expense of acquiring it.

In case such person does not reside within the district in which his lands are situate, the notice may be served upon his agent, or, if he has no agent therein, it will be sufficient to affix the notice upon some conspicuous part of his estate.

Mode of inquiry as to proportion chargeable to each estate.

3. On the day fixed in the notice, which shall not be less than one month later than the date of service of such notice, the Collector shall proceed to make the necessary inquiry for the determination of the proportion in which the estates affected by the construction, extension or alteration of the embankment will be benefited thereby.

In making this inquiry he shall receive such evidence as may be tendered by or on behalf of the owners of estates which may appear likely to be benefited by the construction, extension or alteration of the embankment as aforesaid, and by and on behalf of any other persons who may claim to be interested, in the said inquiry, and he may make or cause to be made such local investigation, and call for such documents, and examine

¹ The Bengal Embankment Act, 1855. It is printed in Vol. I of this Code.

or added;

(Secs. 4-8.)

such witnesses, as he may think necessary; and all the provisions of the law¹ for the time being in force in regard to the examination of witnesses and production of documents, in judicial proceedings shall be applicable to inquiries conducted by the Collector under this Act.

4. The Collector shall and may after such inquiry make an award, in which he shall find and state the names of the persons whose lands will be or are benefited by the construction, alteration or extension of such embankment, and the proportion of the cost of the land and the expense of its acquisition (including therein the cost of the said inquiry) which they ought, respectively, to bear.

Power to make award stating names of owners of lands benefited and proportion of cost payable.

No appeal shall lie from the award of the Collector.

No appeal from a ward, but one owner may recover from another not assessed or under-assessed.

But it shall be competent to the owner of any land assessed to a larger amount than his fair proportion to recover such excess in the Civil Court from the owner of any land or estate benefited thereby upon whom no assessment has been made or a smaller amount has been assessed than ought to have been awarded against him:

Provided that in such suit no more shall be recovered from any person than the amount to which he ought to have been assessed where he has not been required to contribute, or the amount by which the sum he was required to pay was less than his fair proportion where he has been required to contribute.

5. There shall be included in the expense of acquiring the land so to be distributed amongst the persons benefited not only the compensation awarded to the owner of the land taken, including interest at the rate of six *per centum per annum* from the time when the land was taken, but also the cost of surveys and plans, of notices, of the said inquiry and award, and all other costs, charges and expenses incident to obtaining possession of such land.

Expense included in cost of acquiring land.

The amount so awarded shall and may be recovered from the person so required to pay the same in the same way and by the same means² as arrears of Government revenue.

6. When application has been made to the Collector under section 8 of the said Act 32 of 1855³ for the construction of a sluice in any public embankment, and in the opinion of the Collector lands, the property of other persons as well as of the person making the application, will be benefited by the construction of the sluice, the expense of such construction may be assessed upon and recovered from such persons in such shares or proportions as shall, in the opinion,

Expenses of sluice apportioned where lands of different owners benefited.

¹ See now Act 5 of 1908 (the Code of Civil Procedure, 1908), Sch. I, Orders XIII, XVI and XVIII, in General Acts, 1904-09, Ed. 1909, pp. 237, 246.

² See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of this Code.

³ The Bengal Embankment Act, 1855. It is printed in Vol. I of this Code.

(Secs. 7, 8.)

of the Collector, be equivalent in the benefit derived by their lands, respectively:

Provided, nevertheless, that notice in writing shall be served on all such persons, stating that it is proposed to make such sluice, the probable expense thereof, and that an inquiry will be held at a place and hour specified, for the purpose of apportioning the expense of such construction among the persons to be benefited thereby, and that such person is supposed to be likely to be benefited thereby.

And such notice may be served, and such inquiry shall be held, and such award shall be made, subject to the same rules, powers and provisos in all respects as is hereinbefore provided in the case of the apportionment of the cost of land required embankments.

And the said award shall be final: but a civil suit may be brought to recover any excess with which any such person may be charged from persons who ought to have been charged but have not been charged with any portion of the expense or against whom less has been awarded than their fair proportion, as hereinbefore provided with respect to the apportionment of the cost of land.

Disposal of
lands no
longer
required for
embankments.

7. Whenever, in consequence of the construction or alteration of any public embankment, the maintenance of any other public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient by the officer in charge of the embankments, it shall be lawful for the Collector to dispose of the site of the embankment, or of the land so abandoned by public sale; and all the provisions of the law¹ for the time being in force in regard to sales of land in default of payment of the Government revenue shall be applicable, so far as the same may be reasonably applied, to sales under the provisions of this section.

The proceeds of such sales shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of the new land taken up for embankment purposes, and in such case the residue only of the cost of such new land shall be apportioned among the owners of lands benefited as hereinbefore provided:

Provided that it shall not be competent to the Collector to sell in the manner aforesaid any land which shall not have been taken up for embankment-purposes under the provisions of this Act.

Collector may
delegate
powers to
Deputy
Collector.

8. A Collector may delegate any of his powers under this Act to a Deputy Collector; but from any order passed by a Deputy Collector to whom powers have been so delegated an

¹ See now the Bengal Public Lands and Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of this Code.

of 1866.]

(Secs. 9, 10.)

appeal shall lie to the Collector, if presented within fifteen days of the date of the order.

9. Nothing in this Act shall be held to exempt any person from the obligation of giving land gratuitously, or of paying for land taken up for the purpose of public embankments, where such obligation exists by any law or custom. Act does not apply where obligation to provide land exists.

10. The following words and expressions shall have the several meanings hereby assigned to them, unless where a contrary intention appears from the context. Interpretation.

the word "Collector" shall include any officer exercising, by authority of Government, the duties of a Collector of land-revenue, by whatever name his office may be designated: "Collector."

the word "owner" shall include *samindars*, holders of *patni* tenures or of any rent-free tenure, dependent *talukdars*, Sundarban grantees and farmers or holders of tenures paying revenue direct to Government. "Owner."

¹ The provision as to number and gender, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code.

BENGAL ACT 2 OF 1867

(THE BENGAL PUBLIC GAMBLING ACT, 1867).

CONTENTS.

SECTION.

1. Definitions.
2. Power to extend Act.
3. Penalty for owning or keeping, or having charge of, common gaming-house.
4. Penalty for being found in common gaming-house.
5. Power to enter and authorize police to enter and search.
6. Finding cards, etc., in suspected houses to be evidence that they are common gaming-houses.
7. Penalty for giving false name or address.
8. Destruction of instruments of gaming.
9. Proof of playing for stakes unnecessary.
10. (*Repealed.*)
11. Gaming and setting birds and animals to fight in public streets.
- 11A. Exemption of games of mere skill.
12. Offences by whom triable.
13. Penalty for subsequent offence.
14. Application of fines.
15. Application of definition of "offence" in Indian Penal Code.
16. Certain sections to apply without extension.
17. (*Repealed.*)

BENGAL ACT 2 OF 1867

(THE BENGAL PUBLIC GAMBLING ACT, 1867).¹

(10th April, 1867.)

An Act to provide for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal.²

Whereas it is expedient to make provision for the punishment of public gambling and the keeping of common gaming-houses in the territories subject to the Lieutenant-Governor of Bengal³; It is enacted as follows:—

1. "gaming" includes wagering or betting [except wagering or betting upon a horse-race, when such wagering or betting takes place—

(a) on the day on which such race is to be run, and

(b) in an enclosure which the Stewards controlling such race have, with the sanction of the Local Government, set apart for the purpose],

but does not include a lottery;

"instruments of gaming" includes any article used as a means or appurtenance of, or for the purpose of carrying on or facilitating, gaming; and

"common gaming-house" means any house, room, tent, or walled enclosure, or space, or vehicle, or any place whatsoever, in which any instruments of gaming are kept or used for the profit or gain of the person owning, occupying using or keeping such house, room, tent, enclosure, space, vehicle or place, whether by way of charge for the use of such house, room, tent, enclosure, space, vehicle, place or instruments or otherwise howsoever.

¹ **SHORT TITLE.**—This short title was given by the Repealing and Amending Act, 1908, (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1867, p. 141.

LOCAL EXTENT.—Sections 7 and 11 of this Act apply to the town and suburbs of Calcutta, and section 18 applies to the whole of the former Province of Bengal (see s. 16, post, p. 189). Other sections of the Act apply to places to which they are extended by notification under section 2.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

OTHER ENACTMENTS.—For further provisions as to gambling in Bengal, see—

(1) the Howrah Offences Act, 1867 (21 of 1867), ss. 10 to 15, 59, in Vol. I of this Code;

(2) the Indian Penal Code (45 of 1860), s. 294 A, in General Acts, 1884-87, Ed. 1909, p. 331;

(3) the Calcutta Police Act, 1868 (Ben. Act 4 of 1868), ss. 3, 44 to 48, ante, pp. 89, 106, 104 and 106;

(4) the Indian Contract Act, 1872 (9 of 1872), s. 80, in General Acts, 1868-73, Ed. 1909, p. 273; and

(5) the Fort William Act, 1881, s. 3 and Sch., Art. (16), in Vol. I of this Code.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ These definitions of "gaming," "instruments of gaming" and "common gaming-house," in section 1, were substituted for the former definitions by the Bengal Public Gambling (Amendment) Act, 1913 (Ben. Act 4 of 1913), s. 2, in Vol. III of this Code.

(Secs. 2-4.)

Power to extend Act.

2. It shall be competent to the Lieutenant-Governor of Bengal¹ whenever he may think fit, to extend, by a notification² to be published in the Calcutta Gazette, all or any of the sections of this Act to any city, town (save the town of Calcutta³ as defined by Act 6 of 1863⁴ passed by the Lieutenant-Governor of Bengal in Council) or place within the territories subject to his government, and in such notification to define, for the purposes of this Act, the limits of such city, town or place, and from time to time to alter the limits so defined.

Penalty for owning or keeping, or having charge of common gaming-house.

3. Whoever, being the owner or occupier, or having the use, of any house, tent, room, space or walled enclosure, situate within the limits to which this Act applies, opens, keeps or uses the same as a common gaming-house;

and whoever, being the owner or occupier of any such house, tent, room, space or walled enclosure as aforesaid, knowingly or wilfully permits the same to be opened, occupied, used or kept by any other person as a common gaming-house;

and whoever has the care or management of, or in any manner assists in conducting, the business of any house, tent, room, space or walled enclosure as aforesaid, opened, occupied, used or kept for the purpose aforesaid;

and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, tent, room, space or walled enclosure,

shall be liable, on conviction before any Magistrate, to a fine not exceeding two hundred rupees, or to imprisonment of either description, as defined in the Indian Penal Code⁵ 45 of 1860. for any term not exceeding three months.

Penalty for being found in common gaming-house.

4. Whoever is found in any such house, tent, room, space, or walled enclosure, playing or gaming with cards, dice, counters, money or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake or otherwise, shall be liable, on conviction before any Magistrate, to a fine not exceeding one hundred rupees or to imprisonment of either description, as defined in the Indian Penal Code⁶ 45 of 1860. for any term not exceeding one month; and any person found in any common

¹ The clauses as to gender and number, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. See now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 14, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912, (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ For a list of notifications issued under section 2 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ The words "three successive numbers of" in s. 2, which were repealed by the Bengal Public Gambling (Amendment) Act, 1918 (Ben. Act 4 of 1918), s. 4 (2), are omitted.

⁵ i.e., all places within the local limits of the ordinary original civil jurisdiction of His Majesty's High Court of Judicature at Fort William in Bengal.

⁶ Ben. Act 6 of 1868 was repealed by Ben. Act 4 of 1876, which again was repealed by Ben. Act 2 of 1888 and Ben. Act 2 of 1898 has been repealed and re-enacted by the Calcutta Municipal Act, 1901 (Ben. Act 3 of 1901), printed in Vol. III of this Code.

⁷ See Act 45 of 1860, s. 58, in General Acts, 1864-67, Pt. 1860, p. 222.

(Secs. 3, 4.)

gaming-house during any gaming or playing therein shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

5. If the Magistrate of a district¹ or other officer invested with the full powers of a Magistrate² or the District Superintendent of Police, upon credible information, and after such inquiry as he may think necessary, has reason to believe that any house, tent, room, space or walled enclosure is used as a common gaming-house.

power to enter and authorize Police to enter and search

he may either himself enter, or by his warrant authorize any officer of police, not below such rank as the Lieutenant-Governor³ shall appoint⁴ in this behalf, to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, tent, room, space or walled enclosure, and may either himself take into custody, or authorize such officer to take into custody, all persons whom he or such officer finds therein, whether or not such persons may be then actually gaming;

and may seize or authorize such officer to seize all instruments of gaming, and all moneys and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein;

and may search or authorize such officer to search all parts of the house, tent, room, space or walled enclosure which he or such officer shall have so entered, when he or such officer has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he or such officer so takes into custody;

and may seize or authorize such officer to seize and take possession of all instruments of gaming found upon such search.

6. When any cards, dice, gaming-table, cloth, boards or other instruments of gaming are found in any house, tent, room, space or walled enclosure entered or searched under the provisions of the last preceding section, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, tent, room, space or walled enclosure is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Magistrate or police-officer, or by any person acting under the authority of either of them.

Finding card etc., in suspected house to be evidence that they are common gaming-house.

¹ Now District Magistrate and Magistrate of the first class, respectively—see the Code of Criminal Procedure, 1898 (5 of 1898), s. 3 (2), in General Acts, 1898-99, Ed. 1909, p. 40.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

³ For orders made under section 5 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Secs. 7-11.)

Penalty for
giving false
name or
address.

7. If any person found in any common gaming-house entered by any Magistrate or officer of police under the provisions of this Act, upon being arrested by any such officer, or upon being brought before any Magistrate, on being required by such officer or Magistrate to give his name and address, shall refuse or neglect to give the same, or shall give any false name or address, he may, upon conviction before the same or any other Magistrate, be adjudged to pay any penalty not exceeding five hundred rupees, together with such costs as to such Magistrate shall appear reasonable, and on the non-payment of such penalty and costs, or in the first instance if to such Magistrate it shall seem fit, may be imprisoned for any period not exceeding one month.

Destruction
of instru-
ments of
gaming.

8. On conviction of any person for keeping or using any such common gaming-house, or being present therein for the purpose of gaming, the convicting Magistrate may order all the instruments of gaming found therein to be destroyed, and may also order all or any of the securities for money, and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof with all moneys seized therein to be forfeited; or in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Proof of
playing for
stakes un-
necessary.

9. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing therein at any game was playing for any money, wager or stake.

10. (Act not to apply to certain games). *Rep. by the Bengal Public Gambling (Amendment) Act, 1913 (Bengal Act 4 of 1913), s. 5 (3).*

Gaming and
setting birds
and animals
to fight in
public streets.

11. A police-officer may apprehend without warrant any person found '[gaming]' in any public market, fair, street, place or thoroughfare situated within the limits aforesaid,

or any person setting any birds or animals to fight in any public market, fair, street, place or thoroughfare situated within the limits aforesaid,

or any person there present aiding and abetting such public fighting of birds and animals.

Such person, when apprehended, shall be brought without delay before a Magistrate, and shall be liable to a fine not exceeding fifty rupees, or to imprisonment, either simple or rigorous, for any term not exceeding one calendar month,

and such police-officer may seize all birds and animals and instruments of gaming found in such public place or on the person of those whom he shall so arrest, and the Magistrate

¹ The word "gaming" in s. 11 was substituted for the words "playing for money or other valuable thing with cards, dice, counters or other instruments of gaming used in playing any game, not being a game of mere skill" by the Bengal Public Gambling (Amendment) Act, 1913 (Ben. Act 4 of 1913), s. 4, in Vol. III of this Code

(Secs. 11A-16.)

may, on conviction of the offender, order such instruments to be forthwith destroyed, and such birds and animals to be sold.

¹ 11A. Nothing in this Act shall apply to any game of mere skill, wherever played.

Exemption of
games of mere
skill.
Offences by
whom triable.

12. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed.

But such Magistrate shall be restrained within the limits of his jurisdiction under the Code of Criminal Procedure² as to the amount of fine or imprisonment he may inflict.

13. Whoever, having been convicted of an offence punishable under this Act, shall be guilty of any such offence, shall be subject for every such subsequent offence to double the amount of punishment to which he would otherwise have been liable for the same:

Penalty for
subsequent
offence.

Provided that he shall not be liable in any case to a fine exceeding six hundred rupees, or to imprisonment for a term exceeding one year.

14. . . . All fines . . . imposed under this Act . . . shall (subject to the provisions contained in the last preceding section) be applied as the said Lieutenant-Governor³ shall from time to time direct.

Application
of fines.

15. Anything made punishable by this Act shall be deemed to be an "offence" within the meaning of the Indian Penal Code.⁴

Application
of definition
of "offence"
in Indian
Penal Code.
Certain
sections to
apply without
extension.

16. The provisions of sections 7 and 11 of this Act shall . . . apply to the town of Calcutta, and to the suburbs of the town of Calcutta as the same may be from time to time defined by any notification published by the Lieutenant-Governor⁵ in pursuance of Act 2 of 1866¹⁰ passed by the

¹ This new section 11A was inserted by the Bengal Public Gambling (Amendment) Act, 1911 (Ben. Act 4 of 1911), s. 3 (3), in Vol. III of this Code. Cf. Ben. Act 4 of 1866, s. 60A.

² Act 26 of 1861 was repealed and re-enacted by Act 10 of 1872, which again was repealed and re-enacted by Act 10 of 1882. Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to the latter Code—see s. 8 thereof in General Acts, 1898-08, Ed. 1909, p. 40.

³ The words and figures "The provisions for the recovery of fines contained in sections 64, 65, 66 and 67 of the Indian Penal Code and section 61 of the Code of Criminal Procedure shall apply to," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁴ The words "and penalties," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁵ The words "in any town or place other than the town of Calcutta; and such fines," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 5, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁷ The remaining portion of s. 14, relating to fines, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

⁸ As to the recovery of fines, see now the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 26, in Vol. III of this Code.

⁹ Printed in the General Acts, 1864-67, Ed. 1909, p. 248.

¹⁰ Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

¹¹ The Calcutta Suburban Police Act, 1866. It is printed, *ante*, p. 58.

(Sec. 17.)

Lieutenant-Governor of Bengal in Council; and the provisions of section 13 of this Act shall * * *¹ apply to the whole of the said territories.

17. (*Repeal of sections of Bengal Acts 2 and 4 of 1866. Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914. Sch. II.*)

¹ Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

BENGAL ACT 3 OF 1867

(THE BENGAL PORTS ACT, 1867)

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PREAMBLE.

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6. Application of section 2 to certain ships.
7. (*Repealed.*)
8. Power to charge port police upon port-fund.
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10. Power to impose police-port-dues.
- 11 to 13. (*Repealed.*)
14. Power to compound port-dues.
15. Power to vary port-dues.
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The First Schedule.
The Second Schedule.
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BENGAL ACT 3 OF 1867

(THE BENGAL PORTS ACT, 1867).¹

(10th April, 1867.)

An Act to amend the Law relating to ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal.²

Whereas it is expedient to amend the law relating to merchant-ships lying in ports in the Provinces under the control of the Lieutenant-Governor of Bengal³; It is enacted as following:—

1. The following words and expressions for the purposes of this Act have the meanings hereby assigned to them, unless where a contrary intention appears from the context, that is to say:—

the word "master" denotes any person having temporary or permanent command or charge of any vessel otherwise than in the capacity of pilot or harbour-master;

the word "owner" includes any agent acting for and on behalf of the owner of a ship at the port at which such ship shall lie or be;

the word "port" denotes any port within the Provinces aforesaid subject to the provisions of Act 22 of 1855 (*for the regulation of Ports and Port-dues*).³

the word "Magistrate" includes any officer exercising any of the powers of a Magistrate under the Code of Criminal Procedure,⁴ and any Magistrate of Police⁵ for the town of Calcutta:

the expression "municipal town" denotes the town of Calcutta and every town, suburb, station, bazar, village and

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (10 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vid.*, Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1866, page 2193.

LOCAL EXTENT.—This Act applies to all ports in the former Province of Bengal which are subject to the provisions of the Indian Ports Act, 1908 (15 of 1908)—see the title and preamble, and the definition of "port" in section 1.

GENERAL LAW.—The general Ports Act is the Indian Ports Act, 1908 (15 of 1908), printed in General Acts, 1904-09, Ed. 1909, p. 519. The present Act is to be construed together with and as part of that Act—see s. 19 *post*, p. 146, and foot-note thereto.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ Act 22 of 1855 was repealed and re-enacted by the Indian Ports Act, 1875 (12 of 1875), and the latter Act was repealed and re-enacted by the Indian Ports Act, 1889 (10 of 1889), which again has been repealed and re-enacted by the Indian Ports Act 1908 (15 of 1908). The reference in the text to Act 22 of 1855 should now be construed as a reference to Act 15 of 1908, see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1897-97, Ed. 1909, p. 579.

⁴ Act 26 of 1861 was repealed and re-enacted by Act 10 of 1872, which again was repealed and re-enacted by Act 10 of 1882. The Act of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898). This reference should now be taken to be made to the latter Code—see s. 8 thereof in General Acts, 1898-1908, Ed. 1909, p. 40.

⁵ Now Presidency Magistrate—see the Code of Criminal Procedure, 1898 (Act 5 of 1898), s. 3 (3) in General Acts, 1898-1908, Ed. 1909, p. 40.

(Secs. 2-6.)

tract of country to which the provisions of Act 3 of 1864¹ (*the District Municipal Improvement Act*), passed by the Lieutenant-Governor of Bengal in Council, have been or shall be extended;

Penalty for not having sufficient crew on vessels lying in port.

Power to exempt from maintaining crew on particular ships.

Power to "revoke exemption.

Power to make order with respect to portions of ports.

Application of section 2 to certain ships.

2. If any vessel of more than ten tons burden shall, without such license as hereinafter is mentioned, be afloat in any port within the Provinces under the control of the Lieutenant-Governor of Bengal,² without having on board thereof a crew of not less than the number set forth in the first Schedule hereto, the master of such vessel, and in case there shall be no master of such vessel then the owner thereof, shall be punished with a fine not exceeding five hundred rupees.

3. Whenever it shall appear to the Conservator of any port that any vessel in such port may, without danger to other vessels in such port, be afloat without such crew as hereinbefore is mentioned being maintained thereon, it shall be lawful to such Conservator, if he shall think fit, to grant under his hand a license in the Form A in the second Schedule hereto, which license may be made determinable on the breach of any conditions therein contained; and during the continuance of such license the provisions of section 2 of this Act shall not apply to such vessel.

4. It shall be lawful for such Conservator, by any writing under his hand in the Form B in the second Schedule hereto, to revoke such license; and, from and after the publication of such revocation, by posting a copy thereof upon some conspicuous part of such vessel, the provisions of section 2 of this Act shall apply to such vessel and to the master and owner thereof as if no such license had ever been granted.

5. Whenever it shall appear to the Conservator of any port that any creek, river or dock is so situate that vessels without any crew therein may remain afloat in such creek, river or dock without danger to any vessels in any part of such port, it shall be lawful for such Conservator to make an order in the Form C in the second Schedule hereto, and from time to time, if he shall think fit, to revoke or amend such order:

Provided always that every such order, amendment and revocation shall be published in the Calcutta Gazette, and that no such order, amendment or revocation shall have any force or effect until it shall have been so published.

6. During such time as any such order shall remain in force the provisions of section 2 of this Act shall not apply to any vessel lying or being within the limits of any such creek, river or dock, as the same shall be defined by such order.

¹ Ben. Act 3 of 1864 was repealed and re-enacted by Ben. Act 5 of 1878, which again has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884). The reference in the text should now be taken to be made to the Act of 1884—see s. 3 thereof, post, p. 710.

² The singular and gender clause, which was repealed by the Repealing and Amending Act, 1900 (1 of 1900), is omitted. See now the Bengal General Clauses Act, 1893 (Ben. Act 1 of 1893), s. 34.

³ This includes the present Presidency of Fort William in Bengal and other territory.

[1867.]

(Secs. 7-15.)

7. (*Penalty on master omitting to take order to extinguish fire. Rep. by the Indian Ports Act, 1875 (12 of 1875).*)

8. It shall be lawful for the Lieutenant-Governor of Bengal¹ to order (if and when he shall in his discretion think fit) that the entire or any portion of the expense of maintaining the police-force in any port which may be within or abutting upon any municipal town shall be borne by and paid out of the port-fund of such port.

Power to charge port-police upon port-fund.

9. It shall be lawful for the Lieutenant-Governor of Bengal,¹ from time to time, to assign to the persons charged with the management of the municipal fund of any municipal town upon which any port may be abutting, or within which any port may be, such annual sums to be charged upon and payable out of the port fund of such port as to him shall seem just and reasonable for or towards re-imbursing to such municipal fund such portion of the expense of the police-force in such town as may, in the opinion of the said Lieutenant-Governor of Bengal,¹ be rendered necessary by the resort to such town of seamen from ships lying or being in such port.

Power to charge upon port-fund portion of expense of municipal police.

10. In case the port fund of any port shall, after providing for the payment of all sums and charges now by law payable out of such port-fund be insufficient to pay any expense of police and annual sums which shall, under the provisions aforesaid, be payable thereout; it shall be lawful for the said Lieutenant-Governor of Bengal,¹ and he is hereby required, to order that there shall be paid, in addition to all port-dues and charges payable in respect of any ship from time to time lying or being in such port, such port-dues, to be called police-port-dues, as shall thereunto be necessary:

Power to impose police-port-dues.

Provided that the same shall not exceed the port-dues in that behalf mentioned in the third Schedule to this Act.

11 to 13. (*Imposition and application of hospital port-dues²; power to refuse port clearance till expenses under Merchant Shipping Act, 1854, s. 228, are paid). Rep. by the Indian Ports Act, 1875 (12 of 1875).*)

14. It shall be lawful for the owner of any vessel to pay to the Conservator of any port three times the amount of the police-port-dues and hospital-port-dues² which would, for the time being, be payable in respect of such vessel, and thereby to discharge such vessel from all further police-port-dues and hospital-port-dues in such port for the space of twelve calendar months from the day of the date of such payment.

Power to compound port-dues.

15. It shall be lawful for the Lieutenant-Governor of Bengal¹, from time to time, to vary the rate of police-port-dues

Power to vary port-dues.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² As to the imposition and application of hospital port-dues, see now the Indian Ports Act, 1908 (15 of 1908), ss. 49, 50, in General Acts, 1894-1907, Ed. 1909, pp. 527, 528.

(Secs. 16-20.—The First Schedule.)

* * payable in any port, as to him in his discretion shall seem fit, so as that the same shall not exceed the rates in the third Schedule * * * set forth.

Imposition
or increase
of port-
dues to be
published.

16. No order of the Lieutenant-Governor of Bengal,¹ imposing or increasing any port-dues under this Act, shall take effect until the expiration of six calendar months from the day upon which such order shall have been published in the Calcutta Gazette.

Recovery of
penalties.

17. All complaints as to offences against this Act shall be heard and determined by a Magistrate within whose local jurisdiction the offence may be alleged to have been committed

Penalties how
disposed of.

18. All penalties levied under this Act shall be applied as fines received under the said Act 22 of 1855² are directed to be applied.

Construction.

19. This Act shall be construed together with and as part of the said Act 22 of 1855³.

20. (Commencement of Act). *Rep. by the Repealing Act 1873 (12 of 1873).*

THE FIRST SCHEDULE.

(Referred to in section 2.)

	If Natives.	If Euro- peans.	Officers in charge.
Cargo-boats	4	4	0
Vessels, not being cargo-boats, of 600 tons and under, in moorings.	6	4	1
For every additional 100 tons	1½	1	0
Vessels not being cargo-boats of 600 tons and under, in stream.	11	7½	1
For every additional 100 tons	2	1	0

¹ The words "and hospital port dues," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

² The word "respectively," which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ The remainder of s. 17 (relating to the recovery of fines), which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted. See now the Bengal General Clauses Act, 1896 (Ben. Act 1 of 1896), s. 26, in Vol. III of this Code.

⁵ Act 23 of 1855 was repealed and re-enacted by the Indian Ports Act, 1876 (12 of 1876), and the latter Act was repealed and re-enacted by the Indian Ports Act, 1889 (10 of 1889), which again has been repealed and re-enacted by the Indian Ports Act, 1908 (16 of 1908). The reference in the first to Act 23 of 1855 should now be construed as a reference to Act 23 of 1908—see the General Clauses Act, 1897 (19 of 1897), s. 8, in General Acts, 1837-97, Ed. 1909, p. 579.

of 1907.]

(The Second and the Third Schedules.)

THE SECOND SCHEDULE.

(Referred to in sections 3, 4 and 5).

FORM A.

Port of ()
 I () Conservator of the Port of
 do hereby license the (*ship*) of which
 is master, to remain at her present moor-
 ings, in the said port, without having on board the crew
 required by Act 3 of 1867 of the Lieutenant-Governor of Bengal
 in Council:

Provided always that, on breach of any of the conditions
 hereunder written, this license shall forthwith absolutely cease
 and determine.

FORM B.

Port of ()
 I () Conservator of the Port of
 do hereby revoke all license to the (*ship*) to remain
 in port without a crew therein.

FORM C.

Port of ()
 I () the Conservator of the Port of
 do hereby order that vessels lying in the following portion of
 the said port (*here set out the exempted limits*) shall be exempt
 from the provisions of the second section of Act 3 of 1867
 passed by the Lieutenant-Governor of Bengal in Council

THE THIRD SCHEDULE.

*(Referred to in sections 10 * * and 15.)*

PORT-DUES.

Police-port-dues.

For every vessel entering any port, two annas per ton.

* The figures "11," which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

* The provision as to hospital-port-dues, which was repealed by the Repealing and Amending Act, 1908 (1 of 1908), is omitted. As to the imposition of hospital port-dues, see now the Indian Ports Act, 1908 (15 of 1908), s. 49, in General Acts, 1904-09, Ed. 1909, p. 567.

BENGAL ACT 4 OF 1867

[THE BENGAL RENT (APPEALS) ACT, 1867]¹.

(5th June, 1867.)

(Title and preamble). Rep. by the Repealing and Amending Act, 1903 (1 of 1903).

1. Words importing the singular number shall include the plural, and words importing the plural number shall include the singular. Interpretation.

2 to 4. *(Confirmation of prior orders by Deputy Collectors). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

5. * * * It shall be competent to the Lieutenant-Governor of Bengal² specially to appoint any fully qualified Revenue-officer to exercise the powers of the Collector of a district for the purpose of enabling him to hear and determine appeals under [the Bengal Rent Act, 1859, or the Bengal Rent Act, 1862,] and such persons so specially appointed shall have and exercise all such and the same powers in regard to the hearing of such appeals as the Collector of the district, within which such person shall be so appointed, might have and exercise. Appellate jurisdiction exercisable by officers specially appointed by Lieutenant-Governor.

10 of 1869.
Ben. Act 6
of 1862.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1867 page 341.

LOCAL EXTENT.—The original local extent of this Act must (see section 5) be taken to have been the same as that of Act 10 of 1859 and Ben. Act 6 of 1862, namely, the whole of the former Province of Bengal. The Act has however been repealed by the Bengal Tenancy Act, 1886 (8 of 1886), s. 2 (2), (printed in Vol. I of this Code), every where except "the town of Calcutta, [the Division of Orissa] and the Scheduled Districts."

The extension of the repeal to Scheduled Districts depends upon the terms of notifications extending the Act of 1886 to such districts. Under the terms of the notifications, extending the Act of 1886 to the Jalpaiguri District, the repeal has taken effect in that district.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

The only portions of the present Presidency of Fort William in Bengal in which Ben. Act 4 of 1867 appears to be effectually in force at the present time is the Darjeeling District.

² Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

⁴ These references in s. 5 were substituted for the words "the said recited Acts" by the Repealing and Amending Act, 1908 (1 of 1908). The Bengal Rent Act, 1859, is printed in Vol. I of this Code and the Bengal Rent Act, 1862, is printed ante, p. 6.

BENGAL ACT 3 OF 1868

(THE BENGAL LAND-REVENUE SETTLEMENT ACT, 1868).¹

(1st July, 1868.)

An Act to amend the law respecting appeals in cases under Regulation 7 of 1822².

Whereas it is expedient that the period for presenting appeals under section 29 of Regulation 7 of 1822³ should be assimilated to the period for bringing appeals in other cases pending before the revenue-authorities; It is enacted as follows:—

Preamble.

1. No petition of appeal presented under the provisions of section 29 of Regulation 7 of 1822⁴ shall be received after the expiration of thirty days from the date of the decision against which such appeal is presented, unless sufficient cause shall be shown for the delay to the satisfaction of the authority to which such appeal is presented.

Limitation of appeals under section 29, Regulation 7, 1822.

The days shall be reckoned from and exclusive of the day on which the decree was passed, and also exclusive of such time as may be requisite for obtaining a copy of the order appealed against.

2. (*Commencement of Act*). *Rep. by the Repealing Act, 1873 (12 of 1873).*

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1868, p. 966, and for Proceedings in Council, see *ibid*, Supplement, pp. 281, 296, 303 and 371.

LOCAL EXTENT.—The local extent of this Act is the same as that of the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822), s. 29, printed in Vol. I of this Code.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. I of this Code.

BENGAL ACT 4 OF 1868

[THE BENGAL ALLUVION (AMENDMENT) ACT, 1868].¹

(8th July, 1868.)

An Act to amend the provisions of Act 9 of 1847² (an Act regarding the assessment of lands gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa).

Whereas it is expedient to amend the provisions of Act 9 of 1847³; It is enacted and declared as follows:—

1. (*Repeal of s. 7 of Act 9 of 1847*). *Rep. by the Repealing Act, 1873 (12 of 1873).*

2. It is hereby declared that when any islands shall, under the provisions of clause 3, section 4, of Regulation 11 of 1825⁴ of the Bengal Code, be at the disposal of Government, all lands gained by gradual accession to such island, whether from a recess of the river or of the sea, shall be considered an increment to such island, and shall be equally at the disposal of Government.

Accessions to island considered increment thereto.

3. Whenever it shall appear to the local revenue-authorities that an island has been thrown up in a large and navigable river liable to be taken possession of by Government under clause 3, section 4, of Regulation 11 of 1825⁵ of the Bengal Code, the local revenue-authorities shall take immediate possession of the same for Government, and shall assess and settle the land according to the rules in force in that behalf, reporting their proceedings forthwith for the approval of the Board of Revenue, whose order thereupon, in regard to the assessment, shall be final:

Newly thrown up islands to be assessed.

Provided, however, that any party aggrieved by the act of the revenue-authorities in taking possession of any island as aforesaid shall be at liberty to contest the same by a regular suit in the Civil Court.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1868, p. 506, and for Proceedings in Council, see *ibid*, Supplement, 1868, pp. 258, 337, 362, 372 and 388.

LOCAL EXTENT.—The local extent of this Act appears to be the same as that of the Act 9 of 1847 which it amends, printed in Vol. I of this Code.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² The Bengal Alluvion and Diluvion Act, 1847. It is printed in Vol. I of this Code. The section of Act 9 of 1847 which was specifically "amended" by Ben. Act 4 of 1868 was s. 7, which is replaced by s. 3 of the present Act.

³ The Bengal Alluvion and Diluvion Regulation, 1825. It is printed in Vol. I of this Code.

(Secs. 4-8.)

Subsequent
junction to
mainland not
to affect
Government
right.

4. Any island of which possession may have been taken by the local revenue-authorities on behalf of the Government under section 3 of this Act shall not be deemed to have become an accession to the property of any person by reason of such channel becoming fordable after possession of such island shall have been so taken.

Power to
apply for
ways across
islands.

5. Whenever an island, of which possession shall have been taken by Government under section 3 of this Act, shall become attached to the mainland, any person having an estate or interest in any part of the riparian mainland to which such island may become attached while it is in the possession of the Government may apply to the Collector to take measures for the construction of ways, paths and roads on the island: the costs thereof to be equally divided between the applicant and the Government.

Applicant for
ways to depo-
sit money, and
ways to be
made.

6. Thereupon the Collector may require the applicant to make such deposit of money as to the Collector shall seem sufficient, and, on such deposit being made, the Collector shall proceed to lay out and construct such ways, paths and roads in and through the island as he may deem necessary for securing access to the river or sea from the land to which the island may have become attached.

Costs of ways
how borne.

7. In every case the applicant shall be liable to pay and make good to the Government one half of the costs of laying out and constructing such ways, paths and roads as aforesaid, and any moneys due from the applicant under the provisions of this section may be deducted and retained by the Collector out of the deposit so made by the applicant as aforesaid.

Ways to be
public.

8. Every way, road and path, which shall be laid out or appointed under the provisions aforesaid, shall be deemed a public highway.

BENGAL ACT 7 OF 1868

(THE BENGAL LAND-REVENUE SALES ACT, 1868).

CONTENTS.

PREAMBLE.

SECTION.

1. Interpretation.
 2. Appeals against sales
 3. Time for Revenue-sales extended
 4. Time for confirmation of sales extended
 5. Mode of serving notices.
 6. Power to cause notices to be served for arrears or demands
 7. Notices to *raiyats* to be posted in sub-divisional *cutcherry*.
 8. Certificate to be conclusive evidence of regularity in service of notices
 9. (*Repealed.*)
 10. Collectorate to include all estates borne on its roll.
 11. Power to sell tenures.
 12. Effect of sale of tenure.
 13. Power of enhancement.
 14. Saving of right of *raiya*
 - 15 to 29. (*Repealed.*)
 30. Construction.
- Schedules A to E. (*Repealed.*)

BENGAL ACT 7 OF 1868

(THE BENGAL LAND-REVENUE SALES ACT, 1868).¹

(26th August, 1868.)

An Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue.

Whereas it is expedient to amend and extend the law for the recovery of arrears of land-revenue and of public demands recoverable as arrears of land-revenue; It is declared and enacted as follows:—

1. In this Act, and in Act 11 of 1859² (to improve the law relating to sales of land for arrears of revenue in the Lower Provinces under the Bengal Presidency,) the words in this section mentioned shall have the meanings therein attributed to them, respectively—

the word “proprietor” includes any tenant by whom any estate or tenure is held directly under Government:

the word “revenue” includes every sum annually payable to Government by the proprietor of any estate or tenure in respect thereof, and every sum payable to Government in respect of *takavi*, or of any money advanced by Government to proprietors of land for making or repairing embankments, reservoirs or watercourses, or other improvements on the land held by them:

the word “estate” means any land or share in land subject to the payment to Government of an annual sum in respect of

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908, (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1868, p. 471; and for Proceedings in Council, see *ibid*, Supplement, 1868, pp. 247, 281, 890, 418, 509 and 528.

LOCAL EXTENT.—Since this Act is (see s. 50, post, p. 162) to be read with and taken as part of the Bengal Land-Revenue Sales Act, 1859 (11 of 1859), it has the same local extent as that Act, printed in Vol. I of this Code.

The Act has been extended, by notification under the Scheduled Districts Act, 1874 (14 of 1874) s. 5, to the following Scheduled Districts, namely:—
the Western Duars, in the Jalpaiguri District—see Vol. IV, Part IV; and
the Darjeeling District—see *ib*.

² It will be noticed that this Act has not, like the Bengal Land-revenue Sales Act, 1859 (11 of 1859), in Vol. I of this Code, been expressly declared, by notification under the Scheduled Districts Act, 1874, to be in force in West Jalpaiguri.

The application of the Act is barred in the Chittagong Hill tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

ANNOTATED REPRINT.—This Act is reprinted, with notes of cases decided by the High Court and of important rulings of the Board of Revenue, in the Sale Law Manual, 1906, p. 58.

THE CERTIFICATE PROCEDURE.—As to the recovery, under the certificate procedure, of arrears of revenue not realised by sale under the present Act, and of money declared to be recoverable under the present Act, see the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), s. 2 (2) and Sch. I, in Vol. III of this Code.

³ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I, of this Code

(Sec. 2.)

which the name of a proprietor is entered on the register known as the general register of all revenue-paying estates, or in respect of which a separate account may, in pursuance of section 10 or section 11 of the said Act 11 of 1859,¹ have been opened :

"Tenure." the word "tenure" includes all interests in land, whether rent-paying or *luhkiraj* (other than estates as above defined), and all fisheries, which, by the terms of the grants creating the same or by the custom of the country, are transferable, whether such tenures are resumable or not, and whether the right of selling or bringing them to sale for an arrear of rent may or may not have been specially reserved by stipulation in any instrument :

"Jurisdiction." the "jurisdiction" of a Collector means the district to which such Collector is appointed, or throughout which any officer vested with the powers of a Collector is authorized to exercise such powers :

"Collector." the word "Collector" includes any person vested with the powers of a Collector.

Appendix
against sales.

2. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act or the said Act 11 of 1859¹, * * * so that such appeal be preferred to such Commissioner on or before the sixtieth day from the day of sale, reckoning as in section 23 of the said Act 11 of 1859,¹ or be presented to the Collector or other officer duly authorized to hold sales under the said Act for transmission to the Commissioner on or before the forty-fifth day from the day of sale, reckoning as aforesaid, and not otherwise :

and the Commissioner shall be competent, in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act or Act 11 of 1859¹, which shall appear to him not to have been conducted according to the provisions of the said Acts, awarding at the same time to the purchaser a payment from the proprietor of compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest at the highest rate of the current Government securities on the amount of deposit or balance of purchase-money during the period of its being retained in the Collector's office :

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

² The remainder of s. 1, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), is omitted.

³ The words "not being a sale made under, and by virtue of, any execution issued upon a certificate made as hereinafter is provided," which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.

⁴ As to the recovery under the certificate procedure of sums awarded as compensation under this Act, see the Bengal Public Demands Recovery Act, 1912 (Ben. Act 3 of 1912), s. 3 (5), and Ben. I, in Vol. III of this Code.

of 1859.]

(Secs. 3-6.)

and the order of the Commissioner shall in such cases be final.

3. * * * * The word "thirty" shall be substituted for the word "fifteen" in section 6 of the said Act 11 of 1859: * * * Time the revenue-sales extended.

4. * * * * The words "sixtieth" and "sixty" shall be substituted for the words "thirtieth" and "thirty" respectively, wherever the said words occur in section 27 of the said Act 11 of 1859: Time for confirmation of sales extended.

5. Every notice in and by this Act, or by the said Act 11 of 1859,¹ directed to be served, shall be served by delivering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person to some adult male member of his family, or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last-known place of abode of such person. Mode of serving notices.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

6. It shall be lawful for the Lieutenant-Governor of Bengal,² by an order published in the Calcutta Gazette, to empower all Collectors in any district in such order mentioned, if they shall think fit, to cause such notices as shall be in such order specified to be served upon any proprietors * * * * before proceeding under the provisions of the said Act 11 of 1859³ or of this Act, to realize from such proprietors * * * *, any arrears of revenue * * * * which be due from such proprietors * * * *. Power to cause notices to be served for arrears or demands.

and the costs of serving any such notices as shall be served under the powers conferred by any such order, not exceeding such sums as shall in such order be specified, shall be added to any arrears of revenue * * * * which may be due from such proprietors * * * *, and shall be recoverable as if the same were a portion of such arrears of revenue * * * *.

and every such order may from time to time be altered, varied or revoked by any other order of the said Lieutenant-Governor⁴ to be from time to time in like manner published.

¹ The words "From the date when this Act comes into operation," in ss. 3 and 4, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

² The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

³ The remainder of s. 8 (which repealed the words "or more than thirty" in s. 6 of Act 11 of 1859) was repealed by the Repealing and Amending Act, 1908 (1 of 1908), and is omitted.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁵ The words "or persons liable to any demands," which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.

⁶ The words "or persons" which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.

⁷ The words "or any demands," which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.

⁸ The words "or to any demands" which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.

⁹ The words "or of such demands" which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted.

(Secs. 7-11.)

Notices to
agents to be
served in
sub-divisional
cutcherry.

Certificate to
be conclusive
evidence of
regularity in
service of
notices.

Collectorate
to include all
estates borne
on its roll.

Power to sell
tenures.

7. In addition to the notices in and by section 7 of the said Act 11 of 1859¹ directed to be posted, a similar notice shall be posted at the sub-divisional *cutcherry* within the jurisdiction of which the estate to which such notice refers, or some portion thereof, is situate.

8. Every certificate of title which may be given to any purchaser under the provisions of section 28 of the said Act 11 of 1859¹, or of section 11 of this Act, shall be conclusive evidence in favour of such purchaser, and of every person claiming under him, that all notices in or by this Act, or by the said Act 11 of 1859,¹ required to be served or posted, have been duly served and posted ;

and the title of any person who may have obtained any such certificate shall not be impeached or affected by reason of any omission, informality or irregularity as regards the serving or posting of any notice in the proceedings under which the sale was had at which such person may have purchased.

9. (*Sales of lakhirai valid*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. 11.*

10. Every estate shall, for the purposes of this Act and of the said Act 11 of 1859,¹ be deemed to be within the collectorate of the Collector upon whose general register the revenue thereof may be borne, although the whole or any portion of the lands comprised in such estate may be without the local limits of his jurisdiction ; but all lands and tenures shall be deemed to be within the jurisdiction within the local limits of which they may be situate, although the estate of which they form a part may, under the provisions of this section, be deemed to be within the collectorate of any other Collector.

11. Whenever any revenue payable to Government in respect of any tenure not being an estate shall be in arrear after the latest day of payment fixed in the manner prescribed in section 3 of Act 11 of 1859,¹ the Collector to whom such revenue is payable may cause the tenure to be sold in the manner and subject to the provisions in and by the said Act 11 of 1859¹ provided for the sale of estates for the recovery of arrears of revenue ;

and the Collector shall apply the purchase-money arising from such sale according to the provisions of section 31 of the said Act 11 of 1859,¹ except that the residue, if any, shall be held in deposit on account of the holder of the tenure and not on account of the proprietor of the estate ;

and every such Collector shall, upon every such sale of any tenure being final and conclusive, give to the purchaser thereof such certificate of title thereof as is provided in section 28 of the said Act 11 of 1859¹ with respect to estates :

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

² This section was substituted for the original s. 11 by the Bengal Land-revenue Sales (Amendment) Act, 1871 (Ben. Act 2 of 1871), post, p. 196.

of 1868.]

(Secs. 12, 13.)

Provided that no tenure shall be sold for the recovery of arrears of revenue other than those of the current year or of the year immediately preceding, nor for the recovery of arrears of revenue due by tenures under attachment by order of any judicial authority, unless and until after a notification in the language of the district, specifying the nature and amount of the arrear and the latest date on which payment thereof shall be received, shall have been fixed, for a period of not less than fifteen clear days preceding the date fixed for payment according to section 3 of Act 11 of 1859,¹

in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Munsif's Court and police-*thana* of the division in which the tenure to which the notification relates is situated, or, if the tenure be situated within the jurisdiction of more than one Munsif's Court or police-*thana*, in some one or more of such Courts or *thanas*, and also at the *cutcherry* of the *malguzar* or owner of the tenure, or at some conspicuous place upon the tenure, the same to be certified by the peon or other person employed for the purpose.

12. The purchaser of any tenure sold under the provisions of section 11 of this Act shall acquire it free from all incumbrances which may have been imposed upon it after its creation, or after the time of settlement, whichever may have last occurred, and shall be entitled to avoid and annul all under-tenures, and forthwith to eject all under-tenants, with the following exceptions:—

Effect of sale of tenure.

First.—*Istimrari* or *mukarrari* tenures which have been held at a fixed rent from the time of the permanent settlement.

Secondly.—Tenures existing at the time of Permanent Settlement, which have not been held at a fixed rent:

Provided always that the rent of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly.—Tenures created or recognized by the settlement-proceedings of any current temporary settlement, as tenures bearing a rent which is fixed for the period of such settlement.

Fourthly.—Tenures of lands whereon dwelling-houses, manufactories or other permanent buildings have been erected, or whereon permanent gardens, plantations, tanks, canals, places of worship or burning or burying grounds have been made.

13. Every purchaser of a tenure under section 11 of this Act shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions

Power of enhancement.

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

(Secs. 14-30.—Schedules A—E.)

above made, if he can prove the same to have been held at what was originally an unfair rent, unless the same shall have been held for a term exceeding twelve years at a fixed rent equal to the rent of good arable land.

Having of
right of
raiyat.

14. Provided always that nothing hereinbefore contained shall be construed to entitle any such purchaser, under section 11 of this Act, to eject any *raiyat* having a right of occupancy at a fixed rent, or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such *raiyat* otherwise than in the manner prescribed by such laws, or otherwise than as the former proprietor irrespectively of all engagements made since the time of settlement, may have been entitled to do.

15 to 28. (*Certificates of unliquidated arrears executable as decree of Civil Court; notice of certificate; objections to certificate; enforcement of certificate; register of certificates; inspection of register; entry of satisfaction; transmission of sums received*). Rep. by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).

29. (*Repeal of enactments*). Rep. by the Repealing Act, 1873 (12 of 1873).

Construction.

30. This Act shall be read with, and taken as part of, the said Act 11 of 1859¹ as modified by Act 3 of 1862² of the Lieutenant-Governor of Bengal in Council.

SCHEDULES A, B, C, D.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

SCHEDULE E.

Rep. by the Repealing Act, 1873 (12 of 1873).

¹The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

²The Bengal Land-revenue Sales (Amendment) Act, 1862. It is printed *ante*, p. 1.

BENGAL ACT 1 OF 1869.

(THE BENGAL CRUELTY TO ANIMALS ACT, 1869).

CONTENTS.

Section.

1. Definition of "animal."
2. Penalty on cruelty to animals.
3. Penalty on baiting animals, or inciting them to fight.
4. Penalty on permitting diseased animals to go at large or die in public places.
5. Penalty for employing animal unfit for labour.
- 5A. Penalty for practising *phuka*.
- 5B. Infirmeries.
- 5C. Limitation of prosecutions.
6. Trial of offences in Calcutta.
7. Trial of offences out of Calcutta.
8. (*Repealed.*)
9. Limit of Act.
10. Power to extend Act.

BENGAL ACT 1 OF 1869

(THE BENGAL CRUELTY TO ANIMALS ACT, 1869).¹

(10th March, 1869.)

An Act for the Prevention of Cruelty to Animals.

Whereas it is expedient to make provision for the prevention of cruelty to animals; It is enacted as follows:—

1. In this Act, the word "animal," means any domestic or captured animal. Definition of "animal."
2. Every person who shall cruelly and wantonly beat, ill-treat, abuse, torture, overdrive or overload, or cause to be beaten, ill-treated, abused, tortured, overdriven or overladen, any animal, shall be liable to a fine which may extend to one hundred rupees. Penalty on cruelty to animals.
3. Every person who shall incite any quadrupeds or birds, whether domestic or wild, to fight, or shall bait any animal, or shall aid or shall abet any one in so doing, shall be liable to a fine which may extend to fifty rupees. Penalty on baiting animals, or inciting them to fight.
4. Every person who shall wilfully and knowingly permit any animal, of which he may be owner, to go at large in any public street, road or thoroughfare, while such animal is affected with contagious or infectious disease, or shall wilfully permit any diseased or disabled animal, of which he may be owner, Penalty on permitting diseased animals to go at large or die in public places.

¹SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

Ben. Acts. 1 and 8 of 1869 and 8 of 1900 may be cited together as the Bengal Cruelty to Animals Act, 1869 to 1900—see Ben. Act 8 of 1900, s. 8 (2), in Vol. III of this Code.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1868, p. 887, and for Proceedings in Council, see *ibid*, Supplement, 1868, pp. 278 and 877; Supplement, 1869, pp. 15 and 29.

LOCAL EXTENT.—This Act applies to the town and suburbs of Calcutta (see s. 9, *post*, p.), and may be extended to any city, town, station, bazar, cantonment, village, district or portion of a district in Bengal (see s. 10, *post*, p. 167).

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

ARREST.—For power of police to arrest, without a warrant, persons committing offences against this Act, see Ben. Act 3 of 1869, *post*, p. 169.

OTHER ACTS.—A similar Act, passed by the Governor General of India in Council, is the Prevention of Cruelty to Animals Act, 1890 (11 of 1890), printed in General Acts, 1887-97, Ed. 1909, p. 289. Power to extend that Act, or any part of it, to Bengal, is given by s. 1 (2). For a list of notifications issued under section 1 (2) of Act 11 of 1890 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

Other enactments giving powers of punishment for cruelty to animals are the Indian Penal Code (45 of 1860), *sed* 428, 429 (printed in General Acts, 1884-67, Ed. 1909, p. 868), the Police Act, 1861 (5 of 1861), s. 84 (2) (printed in *ibid*, p. 891), and the Stage-Carriages Act, 1861 (16 of 1861), s. 9 (printed in *ibid*, p. 898).

For power to make rules for prevention to cruelty to animals—

in cantonments, see the Cantonments Act, 1910 (16 of 1910), s. 24 (24); and in public parks, see the Bengal Public Parks Act, 1904 (Ben. Act 2 of 1904), s. 4 (e), (f), in Vol. III of this Code.

²This section was substituted for the original s. 1 by the Bengal Cruelty to Animals Act, 1900 (Ben. Act 8 of 1900), s. 1, printed in Vol. III of this Code.

The original section ran thus:—

"1. The word 'animal' shall be taken to mean any domestic or tamed quadruped³ or any domestic or tamed bird."

(Secs. 5-6.)

Penalty for
employing
animal unfit
for labour.

Penalty for
practising
phukd.

Infirmaries.

to die in any public street, road or thoroughfare, shall be liable to a fine which may extend to one hundred rupees.

5. If any person employs in any work or labour any animal which, by reason of any disease, infirmity, wound, sore or other cause, is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

5A. If any person performs upon any cow the operation called *phukd* he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

5B. (1) The Local Government may, by general or special order¹, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against this Act have been committed.

(2) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until it is, in his opinion, again fit for the work or labour on which it has been ordinarily employed.

(3) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency-town, the Commissioner of Police, may from time to time prescribe.

(4) If the owner refuses or neglects to pay such cost and to remove the animal within such time as the Magistrate referred to in sub-section (2) may prescribe, such Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(5) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him; but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

Limitation of
prosecutions.

5C. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Trial of
offences in
Colonies?

6. All complaints of offences against the provisions of this Act, alleged to have been committed in the town of

¹These ss. 5 to 5C were substituted for the original s. 5 by Ben. Act 3 of 1906, s. 2, in Vol. III of this Code.

²The original section 5 ran thus:—

"Every person who shall employ or cause to be employed in any work or labour any animal which, in consequence of any disease, infirmity, wounds or sores, is unfit to be so employed, shall be liable to a fine which may extend to fifty rupees."

³For a list of orders made under s. 5B (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1869.]

(Secs. 7-10.)

Calcutta, shall be heard and determined in a summary way by some Police Magistrate¹ of Calcutta.

7. Every charge of an offence against the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, and the provisions of the Code of Criminal Procedure² shall apply to the trial of every such charge.

Trial of
offences out of
Calcutta.

8. (*Repeal of enactments*). *Rep. by the Repealing Act, 1873 (12 of 1873).*

9. This Act shall extend to the town of Calcutta and to the suburbs of the town of Calcutta as defined by any notification under section 1 of "[Bengal Act 2 of 1866]".

Limit of Act.

10. It shall be lawful for the Lieutenant-Governor of Bengal³, by an order⁴ published in the Calcutta Gazette, to extend this Act to any city, town, station, *bazar*, cantonment, village, district or portion of a district, to be mentioned and defined in such order; and from time to time, by any order published, as aforesaid, to revoke, vary, amend or alter any such order.

Power to ex-
tend Act.

¹Now "Presidency Magistrate"—see the Code of Criminal Procedure, 1898 (5 of 1898), s. 8, in General Acts, 1898-1903, Ed. 1909, p. 40.

²This reference to Act 25 of 1861 must now be taken to be made to the Code of Criminal Procedure, 1898 (5 of 1898)—see s. 3 (2) of the latter Act, in General Acts, 1898-1906, Ed. 1909, p. 40.

³These words and figures in square brackets in s. 9 were substituted for the words and figures "the said Act 2 of 1866" by the Repealing and Amending Act, 1908 (1 of 1908), printed in Vol. I of this Code. The short title of Bengal Act 2 of 1866 is "The Calcutta Suburban Police Act, 1866." The Act is printed *ante*, p. 58.

⁴Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁵For a list of orders made under s. 10 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

BENGAL ACT 3 OF 1869

[THE BENGAL CRUELTY TO ANIMALS (ARREST) ACT, 1869].¹

(25th August, 1869.)

An Act to enable Police-officers to arrest without warrant persons guilty of cruelty to Animals.

Whereas it is expedient to enable police-officers in certain places to arrest without warrant any person committing, within their view, any offence against Act 1 of 1869² passed by the Lieutenant-Governor of Bengal in Council, entitled an Act for the Prevention of Cruelty to Animals; It is enacted as follows:—

1. Every Police-officer may arrest without a warrant any person committing, in his view, any offence against the said Act 1 of 1869.³ Arrest or person guilty of cruelty.

2. This Act shall apply to the town of Calcutta, as defined in Act 4 of 1866⁴ passed by the Lieutenant-Governor of Bengal in Council, and in the suburbs of the Town of Calcutta, as the same may from time to time be defined by any notification to be from time to time published by the said Lieutenant-Governor,⁵ in pursuance of the provisions of Act 2 of 1866,⁶ and save as hereinafter is provided, to such towns and suburbs only. Act to apply to Calcutta and suburbs.

3. It shall be lawful for the Lieutenant-Governor of Bengal⁷ by a notification⁸ to be published in the Calcutta Gazette, to extend this Act to any town, suburbs, district or tract of country, to be mentioned and defined in such notification; and from and after the publication of such notification this Act shall extend and apply to the town, suburb, district or tract of country therein mentioned and defined. Power to extend Act.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

This Act, with Ben. Acts 1 of 1869 and 3 of 1900, may be cited together as the Bengal Cruelty to Animals Act, 1869 to 1900—see Bengal Act 3 of 1900, s. 3 (2), in Vol. III of this Code.

LEGISLATIVE PAPERS.—For Proceedings in Council, see the Calcutta Gazette, 1869, Supplement, pp. 504, 535 and 542.

LOCAL EXTENT.—This Act applies to the town and suburbs of Calcutta (see s. 2), and may be extended to any town, suburb, district or tract of country in Bengal (see s. 3).

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² The Bengal Cruelty to Animals Act, 1869. It is printed *ante*, p. 165.

³ The Calcutta Police Act, 1866. It is printed *ante*, p. 89.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 3, in Vol. I of this Code.

⁵ The Calcutta Suburban Police Act, 1866. It is printed *ante*, p. 68.

⁶ For a list of notifications issued under section 3 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

BENGAL ACT 7 OF 1869

(THE BENGAL POLICE ACT, 1869).¹

(29th September, 1869.)

An Act to amend the constitution of the Police-force in Bengal.

Whereas it is expedient that the entire police-establishment in the provinces under the control of the Lieutenant-Governor of Bengal² should cease to be one police-force, and that the said provinces should cease to be one general police-district under one Inspector-General; It is enacted as follows:—

Preamble.

1. (*Repeal of section 2, Act 5 of 1861*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. It shall be lawful for the Lieutenant-Governor of Bengal,³ from time to time, to divide the said provinces into as many general police-districts as he may think fit, and from time to time to vary and alter any of such general police-districts, or to consolidate two or more of such general police-districts into one district, as he may think fit.

Power to divide the provinces into police-districts.

3. It shall be lawful for the said Lieutenant-Governor³ in each such general police-district to appoint some person to exercise in such district the powers of an Inspector-General of Police, whether such person shall or shall not hold any other office under the said Lieutenant-Governor³; and the administration of the police throughout such general police-district,

Power to appoint in districts persons to execute duties of Inspector-General.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1869, page 484, and for Proceedings in Council, see *ibid*, Supplement, 1869, pp. 156, 265, 291, 341 and 645.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see the title and preamble.

The Act is in force in the Chittagong Hill-tracts—see Vol. IV, Pt. VII.

OTHER ENACTMENTS.—The General Police Acts in force in Bengal are—
(1) the Police Act, 1861 (5 of 1861), printed in General Acts, 1834-67, Ed. 1906, p. 878, and
(2) the Police Act, 1888 (8 of 1888), printed in General Acts, 1887-97, Ed. 1909, p. 78.

For further local enactments, in force in Bengal, relating to the Police, see—
the Cuttack Police Regulation, 1805 (18 of 1805), in Vol. I of this Code,
the Calcutta Suburban Police Act, 1866 (Ben. Act 2 of 1866), *ante*, p. 53.
the Calcutta Police Act, 1866 (Ben. Act 4 of 1866), *ante*, p. 89.
the Village Chaukidari Act, 1870 (Ben. Act 6 of 1870), *post*, p. 176.
the Bengal Village Chaukidari Act, 1871 (Ben. Act 1 of 1871), *post*, p. 198.
the Chittagong Hill tracts Frontier Police Regulation, 1881 (8 of 1881), in Vol. I of this Code.

the Calcutta Police Act, 1898 (Ben. Act 1 of 1898), in Vol. III of this Code.
the Calcutta and Suburban Police (Superannuation Fund) Act 1906 (Ben. Act 6 of 1906), in Vol. III of this Code, and
the Eastern Bengal and Assam Military Police Act, 1912 (E. B. & A. Act 3 of 1912), in Vol. III of this Code.

² This includes the present Presidency of Fort William in Bengal and other territory. •

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of the Code.

[Ben. Act 7 of 1869.]

(Secs. 4-6.)

and all powers and authorities by the said Act 5 of 1861¹ or any other Act conferred on an Inspector-General of Police, shall be vested in such person.

Police-establishment in each district to be considered one police-force.

4. The entire police-establishment in every such district shall, for the purposes of the said Act 5 of 1861¹, be deemed to be one police-force, and shall be formally enrolled, and shall consist of such number of officers and men, and shall be constituted in such manner, and the members of such force shall receive such pay, as shall from time to time be ordered by the said Lieutenant-Governor² subject to the sanction of the Governor General of India in Council.

Power to employ police out of district.

5. It shall be lawful for the Lieutenant-Governor² to employ members of the police-force who have been enrolled in, or appointed to, any one general police-district, in any other general police-district within the provinces subject to his control; and the powers conferred on police-officers by the Code of Criminal Procedure³ may be by them exercised in any portion of the said provinces without reference to the local limits of the general police-district to which they may respectively belong. 25 of 1861.

Construction.

6. This Act shall be read and taken, in the provinces under the control of the Lieutenant-Governor of Bengal,⁴ as part of the said Act 5 of 1861.¹

¹ The Police Act, 1861. It is printed in General Acts, 1834-67, Ed. 1909, p. 878.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ Act 25 of 1861 was repealed and re-enacted by Act 10 of 1872, which again was repealed and re-enacted by Act 10 of 1882. The Act of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898). This reference should now be taken to be made to the Act of 1898—see s. 8 (1) of that Act, in General Acts, 1898-1908, Ed. 1909, p. 40.

⁴ This includes the present Presidency of Fort William in Bengal and other territory.

BENGAL ACT 5 OF 1870
(THE VILLAGE CHAUKIDARI ACT, 1870).

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BENGAL ACT 6 OF 1870

(THE VILLAGE CHAUKIDARI ACT, 1870).¹

(19th October, 1870.).

An Act to provide for the appointment, dismissal and maintenance of village-chaukidars.

Whereas it is expedient to make provision for the appointment, dismissal and maintenance of village-*chaukidars* in the provinces subject to the Lieutenant-Governor of Bengal²; It is enacted as follows :—

Preamble.

1. The following words and expressions shall, in the construction of this Act, have the several meanings hereby assigned to them respectively, except where a different intention shall appear from the context (that is to say) :—

Definitions.

the words ³["District Magistrate"] shall mean the chief officer charged with the executive administration of a district in criminal matters by whatsoever designation such officer is called :

"District Magistrate."

The words "*chaukidari chakaran* lands" shall mean lands which may have been assigned, otherwise than under a temporary settlement, for the maintenance of the officer who may have been bound to keep watch in any village and report crime to the police, and in respect to which such officer may be at the time of the passing of this Act liable to render service to a *zamindar* :

"Chaukidari chakaran lands."

the word "*zamindar*" shall mean the person whose name is registered in the general register of estates paying revenue directly to Government as the proprietor of an estate

"Zamindar."

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1870, page 357; and for Proceedings in Council, see *ibid.* Supplement, 1870, pp. 50, 179, 305, 338, 349, 385 and 386.

LOCAL EXTENT.—This Act applies to districts and sub-divisions in Bengal to which it is extended by order under s. 68—see that section, *post*, p. 190.

The application of the Act is barred in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), in Vol. I of this Code.

EXTENSION OF PROCEDURE.—As to the application of portions of this Act to the recovery of expenses and assessments for sanitary purposes in a Union, see the Bengal Local Self-Government Act of 1886 (Ben. Act 3 of 1886), s. 118 (as originally enacted) and ss. 117 and 118C(3) (as amended by Bengal Act 5 of 1908), *post*, pp. 954 and 858.

AMENDING ACTS.—Bengal Acts 1 of 1871, 1 of 1886 and 1 of 1892 are to be read with, and taken as part of, this Act—see Ben. Act 1 of 1871, s. 7 (*post*, p. 184), Ben. Act 1 of 1886, s. 1 (*post*, p. 975), and Ben. Act 1 of 1892, s. 1 (in Vol. III of this Code).

² This includes the present Presidency of Fort William in Bengal and other territory.

³ The words "District Magistrate" were substituted for the words "Magistrate of the District" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2(2), in Vol. III of this Code.

⁴ The definition of "Magistrate" was repealed by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 1(1), and is omitted.

(Secs. 2-3A.)

so paying revenue, or the person whose name is registered in the general register of rent-free tenures as proprietor of a rent-free tenure.

Repeal of
portion of
Regulation
20 of 1817.

2. Section 21, Regulation 20 of 1817¹, is hereby repealed² as to all villages to which this Act may apply.

Appointment
of panchayats.

3. The District Magistrate may.—

(1) by an order in writing, appoint not less than three nor more than five residents in any village within the district of which he has charge to be the *panchayat* thereof; or

(2) he may, with the previous sanction of the Local Government, direct that the adult male rate-paying residents of any village shall select, according to any rules that may be prescribed by the Local Government and published in the Calcutta Gazette, not less than three nor more than five residents of the village to be the *panchayat* thereof; and the District Magistrate shall, if he approves of the person so selected, appoint such persons to be the *panchayat*; but if in his opinion, any person so selected is, for reasons to be recorded by him in writing, unfit to be a member of the *panchayat*, the District Magistrate shall appoint a fit and proper resident to be a member of the *panchayat*:

Provided that no *panchayat* shall be appointed in any place to which the Bengal Municipal Act, 1884³ has been, or may hereafter be, extended: Ben. Act 8 of 1884.

Provided also that the Local Government shall be entitled to prescribe that in certain specified local areas, to be notified⁴ in the Calcutta Gazette, the number of persons to be appointed to discharge the duties of a *panchayat* may be reduced to one.

Delegation
of powers
by the
District
Magistrate.

3A. The District Magistrate may from time to time by an order in writing, with the sanction of the Commissioner, delegate his powers under this Act, either wholly or in part, to any Magistrate of the first class subordinate to him, or to any Magistrate in charge of a sub-division or to the District Superintendent of Police; and, by a like order, and with the same sanction may withdraw such delegated powers.

¹ The Bengal Police Regulation, 1817. It has now been wholly repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), in Vol. III of this Code.

² This repeal does not take effect in any village or union until a *chaudhūr* has been appointed therein under the provisions of this Act—see the Bengal Village Chaukidari Act, 1871 (Ben. Act 1 of 1871), s. 1, post, p. 198.

³ This section was substituted for the former s. 3 by the Bengal Village Chaukidari (Amendment) Act, 1902 (Ben. Act 1 of 1902), s. 2, in Vol. III of this Code.

⁴ Printed post, p. 709.

⁵ For a notification issued under this proviso for Bengal see constituted on the 2nd March, 1902, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ S. 3A was inserted by the Bengal Village Chaukidari (Amendment) Act, 1902 (Ben. Act 1 of 1902), s. 4, in Vol. III of this Code.

(Secs. 4-7.)

4. The District Magistrate may, from time to time, by an order in writing under his hand, declare any local area or group of dwellings, within the district of which he has charge, to be a village for the purposes of this Act.

Power to
define a
village.

5. Whenever the majority in number of the adult male residents in any village * * * shall, by a writing signed by them, apply to the [District Magistrate] for the appointment of a *panchayat* in such village * * *, it shall be lawful for him to appoint a *panchayat* under this Act in such village * * * without regard to the number of houses therein contained, and all the provisions of this Act shall apply to such *panchayat* and to such village * * *.

Power to
appoint
panchayat
on application
of villages.

6. Whenever any member of a *panchayat* shall die or cease to be a member of such *panchayat*, the [District Magistrate] shall, by writing under his hand, call on the remaining members of the *panchayat* to nominate within thirty days a fit and proper person to be appointed as member of the *panchayat* in the room of such member so dying or ceasing to be a member, and the [District Magistrate] shall, unless he considers such nomination improper, appoint the person so nominated to be a member of the *panchayat*:

Succession of
member of
panchayat.

Provided that if no person shall have been so nominated, or if in the opinion of the [District Magistrate] the person nominated is, for reasons to be recorded by him in writing, unfit to be appointed a member of the *panchayat*, the [District Magistrate] shall appoint a fit and proper person to be a member of the *panchayat*.

7. No person shall be appointed to be a member of a *panchayat* under this Act unless he be a resident in such village or the proprietor or holder of land therein or his local agent:

Qualification
of members of
panchayat.

Provided that such proprietor or local agent shall not be so appointed unless he be resident within one mile from some part of such village.

* This section was substituted for the original s. 4 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 6, in Vol. III of this Code.

The original s. 4 ran as follows:—

"4. If two or more villages containing together not less than eighty houses are so situate that some house in one of such villages is situate within one mile of some house in each of the others, it shall be lawful for the Magistrate to form such villages into a union, and for the purposes of this Act such union shall be deemed to be a village."

* The words "or in two or more villages so situate as in s. 4 is set forth" were repealed by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 6, and are omitted.

* The words "District Magistrate" in s. 5 were substituted for the words "Magistrate of the district" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (f), in Vol. III of this Code.

* The words "or villages" in s. 5 were repealed by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 6, and are omitted.

* This section was substituted for the original s. 6 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 8, post, p. 975. The original s. 6 ran as follows:—

"6. Whenever any member of a *panchayat* shall die or cease to be a member of such *panchayat*, the Magistrate of the district shall, by a deed under his hand and seal, appoint some other person to be a member of such *panchayat* in the place or stead of the person so dying or ceasing to be a member."

* The words "District Magistrate" in s. 6 were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (f), in Vol. III of this Code.

(Secs. 8-11.)

Penalty on
refusing to
act as
member of
panchayat.

8. If any person, appointed to be a member of a *panchayat*, shall refuse to undertake the office, or wilfully omit to perform the duties thereof, and shall not within ¹ [thirty days] from the date of his appointment, or from such omission, show grounds to the satisfaction of the ² [District Magistrate] for such refusal or omission, he shall be liable to a fine which may extend to fifty rupees :

Provided that every person who shall have paid any fine under the provisions of this section shall thereupon cease to be a member of the *panchayat* and shall not be liable to be re-appointed a member of *panchayat* for the space of ³ [three years] from the day of the payment of such fine.

Period for
which panch-
ayat to be
appointed.

9. Every member of a *panchayat* appointed under section 3 shall be appointed for the term of three years.

Every member of a *panchayat* appointed under section 6 shall be appointed only for a term equal to the unexpired portion of the term for which the member whom he succeeds was appointed.

Exemption
from serving
on panchayat.

9A. No member of a *panchayat*, after the expiry of his term of office, shall be again appointed a member of a *panchayat*, without his consent till after the lapse of three years.

Appointment
of fresh
panchayat.

9B. On the expiry of the term for which the members of a *panchayat* were appointed, the ⁴ [District Magistrate] shall appoint a new *panchayat* in the manner prescribed in section 3, the outgoing *panchayat* continuing to exercise all the functions of a *panchayat* until such new *panchayat* has been appointed.

Power to
remove
members.

10. It shall be lawful for the ⁵ [District Magistrate], by an order in writing signed by him, to remove or discharge any member of a *panchayat*.

Numbers of
chaukidars
to be deter-
mined by the
District
Magistrate.

11. The District Magistrate shall determine the number of *chaukidars* to be employed in a village :

¹ The words "thirty days" in s. 8 were substituted for the words "fifteen days" by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 4, post, p. 975.

² The words "District Magistrate" in s. 8 were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (2), in Vol. III of this Code.

³ The words "three years" in s. 8 were substituted for the words "two years" by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 1, post, p. 975.

⁴ This section was substituted for the original s. 9 by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 5, post, p. 975. The original s. 9 ran as follows:—

"9. It shall be lawful for any person who shall have served for the term of two years as a member of any *panchayat* to retire from such *panchayat*, and the person so retiring shall not without his own consent be appointed to serve on such *panchayat* until after the expiry of two years from the date of such his retirement."

⁵ Ss. 9A and 9B were inserted by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 5, post, p. 975.

⁶ The words "District Magistrate" in ss. 9B and 10 were substituted for the words "Magistrate of the District" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (2), in Vol. III of this Code.

⁷ This section was substituted for the original s. 11 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 7, in Vol. III of this Code. The original s. 11 ran as follows:—

"11. The *panchayat* shall determine the number of *chaukidars* to be employed in a village :
Provided that there shall be at least two *chaukidars* appointed in every village in which there are one hundred and fifty houses, and one additional *chaukidar* for every complete number of one hundred houses beyond such number of one hundred and fifty."

of 1870.]

(Sess. 12-16.)

Provided that, without the sanction of the Commissioner, there shall not be more than one *chaukidar* for every sixty houses.

¹ 12. The salaries of *chaukidars* appointed shall be determined by the District Magistrate :

The District Magistrate to determine salaries of *chaukidars*.

Provided that such salaries shall not be less than two nor more than six rupees *per mensem*.

² 13. The *panchayat* shall impose an assessment yearly in each village equal to the amount required for the pay and equipment of the *chaukidars*, together with fifteen *per cent.* above such amount, in order to provide for payment of the expenses of collection and losses from the non-realization of the rate from defaulters.

Salaries to be provided by assessment.

³ 14. All owners or occupiers of houses in any village, and any person who has within such village a *cutcherry* for collecting rents, shall be liable to assessment for the purposes of this Act.

Persons liable to assessment.

15. The rate to be levied in any village for the purposes of this Act shall be an assessment according to the circumstances and the property to be protected of the persons liable to the same :

Nature and amount of assessment.

Provided that the amount to be assessed on any one person shall not be more than one rupee *per mensem*, and that all persons who, in the opinion of the *panchayat* are too poor to pay half an anna a month shall be altogether exempt from assessment under this Act.

16. The *panchayat* shall, two clear months⁴ before the first day of the year current in the village, make such assessment upon the several persons liable thereto, and shall enter the same in a list, which shall specify the name of each person liable to be assessed, the trade, business or other description of such person, and the amount payable monthly by such person, and such list shall be by them published in some conspicuous part of the village at least fifteen days before the expiry of the said two months.

Time and form of assessment.

¹ This section was substituted for the original s. 12 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 8, in Vol. III of this Code. The original s. 12 ran as follows:—

"12. The *panchayat* shall from time to time determine the monthly salaries of the *chaukidars* to be appointed: Provided that such salaries shall not be less than three nor more than six rupees per month."

² This section was substituted for the original s. 13 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 9, in Vol. III of this Code. The original s. 13 ran as follows:—

"13. The *panchayat* shall raise in each village, by a yearly assessment, the amount required for the pay of the *chaukidars*, together with fifteen *per cent.* above such amount in order to provide for payment of the expenses of collection and losses from the non-realization of the rate from defaulters."

³ This section was substituted for the original s. 14 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 10, in Vol. III of this Code. The original s. 14 ran as follows:—

"14. All owners or occupiers of houses in any village, and any *samindar* who has within such village a *cutcherry* for collecting rents, shall be liable to assessment for the purposes of this Act."

⁴ As to the making of an assessment within one month after the appointment of a *panchayat*, see the Bengal Village Chaukidari Act, 1871 (Ben. Act 1 of 1871), ss. 2 to 4, *post*, p. 193.

(Secs. 17-24.)

- Power to continue former assessment.** 17. The *panchayat* may, instead of making a new assessment, revise or continue the assessment of the current year, and the assessment so revised or continued shall be in like manner published.
- Duration of assessment.** 18. Every assessment so made, revised or continued shall commence and take effect upon the first day of the year current in the village next ensuing the date of publication thereof, and shall remain in force for one year, and until some other assessment properly made or revised under the provisions of this Act shall commence and take effect.
- Power to review assessment.** 19. Any person dissatisfied with the amount at which he has been assessed may, within one month after any publication of any assessment, apply to the *panchayat*, either orally or in writing, for a revision of the assessment, and the *panchayat* may confirm the assessment or amend the same.
- District Magistrate may revise assessment.** 20. No appeal, as of right, shall lie from any order passed by a *panchayat* as regards the revision of any assessment; but the ¹[District Magistrate] may call for the general list of assessment in any village, and shall so call for such list on the application of ten rate-payers in such village, and may pass such orders on any list so called for as he may think proper.
- Rate payable quarterly in advance.** 21. Every rate to be payable under this Act shall be payable by equal ²[quarterly] instalments; the instalment of rate on account of each ³[quarter] shall be due on the first day of such ⁴[quarter].
- Allowance for collecting rate.** 22. Every *panchayat* shall appoint one of their number to receive and collect the rate, and to grant receipts for the same and to keep the accounts thereof, and it shall be lawful for the *panchayat* to permit the person so appointed to retain any sum not exceeding ⁵[ten per cent.] of the amount collected by him to repay the costs of such collection.
- Constitution of Chaukidari Fund.** 23. The proceeds of every assessment to be levied under this Act in any village, together with any sum which may become applicable to the purposes of this Act, shall constitute a fund, which shall be called the *Chaukidari* Fund of such village.
- Application of surplus.** 24. If at the end of any year any surplus of the Fund may remain unexpended, such surplus shall be carried to the credit of the *Chaukidari* Fund for the ensuing year, and the amount to be raised by assessment in such ensuing year may in such case be reduced by the amount of such surplus.

¹ The words "District Magistrate" in s. 20 were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (2), in Vol. III of this Code.

² The words "quarterly" and "quarter," in s. 21, were substituted for the words "monthly" and "month," with retrospective effect, by the Bengal Village Chaukidari Act, 1871 (Ben. Act 1 of 1871), s. 6, post, p. 194.

³ The words "ten per cent." in s. 22 were substituted for the words "six per cent." by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 2 of 1892), s. 7, post, p. 195.

of 1870.]

(Secs. 24-31.)

25. Every person liable to pay any sum assessed upon him under this Act shall, within seven days after the day upon which any instalment of rate may be payable by him, pay or tender such instalment to the person appointed by the *panchayat* to receive the same.

Payment of
instalment to
be made with-
in seven
days.

26. Immediately after the tenth day of '[quarter] the *panchayat* of every village, to which the provisions of this Act extend, shall prepare a list of the persons who may have failed to pay their respective instalments of the rate for such '[quarter] showing the amount due from each of such defaulters, and shall publish such list in some conspicuous part of the village.

List of defau-
lters to be
made out.

27. The collecting member of the *panchayat* shall thereupon issue a writing in the form in Schedule A, signed by him, authorizing the *chaukidar*, or such other person as may be therein named, to levy, by the distraint and sale of a sufficient portion of the movable property of such defaulters, the amount of their respective arrears, together with sums equal to such arrears respectively by way of penalty.

Power to dis-
train for
rates.

28. The person so authorized shall seize such movable property of such respective defaulters as he shall deem sufficient, and shall make an inventory of all movable property so seized, and shall at the same time give notice by beat of drum of the time and place where such movable property shall be sold.

Manner of
executing dis-
tress.

Such time of sale shall be not less than two days nor more than five days from the time of the proclamation thereof.

29. In case any defaulter shall not, within the time specified by such notice, pay the amount of such arrears payable by him, together with an equal amount by way of penalty, the movable property distrained, or such portion of it as may be necessary, shall be sold by public outcry at the place and time specified, and the proceeds shall be applied in discharge of such amount and penalty, and the surplus, if any, shall be returned to the person in possession of the movable property at the time of the seizure.

Sale in excep-
tion of
warrant.

30. Whenever any person whose name may have been included in any list of defaulters may dispute his liability to pay the amount mentioned in such list or any portion thereof, he may apply to the '[District Magistrate] either orally or writing, stating the grounds of his objection, and the '[District Magistrate] shall examine his objection and pass such order thereon as to him shall seem proper.

Objections to
levy how to
be made.

31. Any property distrained under the provisions of section 28 shall remain in the custody of the *chaukidar*, or of

Custody of
property
distrained.

¹ The word "quarter," in s. 26, was substituted for the word "month," with retrospective effect, by the Bengal Village Chaukidari Act, 1871 (Ben. Act. 1 of 1871), s. 3, para. 9, 184.

² The words "District Magistrate," in s. 30, were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1888 (Ben. Act. 1 of 1888), s. 3 (4), in Vol. III of this Code.

(Secs. 32-33.)

some other person whom the *panchayat* may appoint in that behalf.

That property may be distrained for arrears.

32. All goods and chattels, except plough-cattle and tools and implements of trade or agriculture, found in or upon any house or land occupied by any defaulter, shall be deemed to be his property, and shall be liable to be distrained and sold for the recovery of the arrear.

If the goods and chattels distrained belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner of such goods and chattels for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.

Distress not to be levied after a year.

33. No arrears of any rate payable under this Act shall be recovered by distress after the expiration of one year from the day on which the same shall have become due.

Irregularities not to avoid distraint.

34. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any list, assessment, notice, summons, power, writing, inventory or other proceeding relating thereto, nor shall such party be deemed a trespasser from the commencement on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for any special damage sustained by them, in any Court of competent jurisdiction, subject to the provisions of section 63 of this Act.

Appointment and dismissal of chaukidars.

35. (1) The *panchayat* shall, when a vacancy exists, nominate a person to be a *chaukidar* under this Act, and the District Magistrate shall, if satisfied with such nomination, appoint such nominee to be *chaukidar*.

Provided that if the *panchayat* fail to nominate within a reasonable time a person to be a *chaukidar*, or the District Magistrate is not satisfied with such nomination, the District Magistrate shall appoint any person he thinks fit to be a *chaukidar*.

(2) The District Magistrate, or the *panchayat* with the sanction of the District Magistrate, may, from time to time, dismiss any *chaukidar* so appointed.

36, 37. (*Appointment of chaukidars to be registered by police; power of Magistrate to dismiss chaukidars*). Rep. by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 12.

Power to fine chaukidars.

38. Every *chaukidar* who may be guilty of any wilful misconduct in his office, or neglect of his duty, such misconduct

¹ This section was substituted for the original s. 35 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 11, in Vol. III of this Code. The original s. 35 was as follows:—

² "The *panchayat* shall appoint any person to be *chaukidar* under the Act, and may, from time to time, with the sanction of the Magistrate, dismiss any such *chaukidar*."

(Sec. 39.)

or neglect not being an offence within the meaning of the Indian Penal Code,¹ and not being of so grave a character as in the opinion of the ²[District Magistrate] to require his dismissal from his office, shall be liable to a fine which shall not exceed the amount of one month's salary.

³39. Every *chaukidar* appointed under the provisions of this Act shall perform the following duties:— Duties of *chaukidars*.

- 1st.—he shall give immediate information to the officer in charge of the police-station within the limits of which the village is situate of every unnatural, suspicious or sudden death which may occur, and of any offence specified in Schedule B which may be committed within his village, and he shall further keep the police informed of all disputes which are likely to lead to any riot or serious affray;
- 2nd.—he shall arrest all proclaimed offenders and any person who in his presence commits any offence specified in Schedule B, and any person against whom a hue-and-cry has been raised of his having been concerned in any such offence, whether such offence has been or is being committed within his village or outside of it, and shall, without delay, convey any person so arrested to the said police-station;
- 3rd.—he shall, to the best of his ability, prevent, and may interpose for the purpose of preventing, the commission of any offence specified in the said Schedule;
- 4th.—he shall assist private persons in making such arrests as they may lawfully make, and shall report such arrests without delay to the officer in charge of the said police-station;
- 5th.—he shall observe, and, from time to time, report to the officer aforesaid the movements of all bad characters within his village;
- 6th.—he shall report to the officer in charge of such police-station the arrival of suspicious characters in the neighbourhood;
- 7th.—he shall report to the officer aforesaid, in a form signed by one member of the *panchayat*, the births and deaths, if any, which have occurred within his village at such intervals as the District Magistrate may determine;

¹ Printed in General Acts, 1854-67, Ed. 1909, p. 248.

² The words "District Magistrate" in s. 38 were substituted for the word "Magistrate" by the Bengal Village Chaukdari (Amendment) Act, 1893 (Ben. Act 1 of 1893), s. 2 (2), in Vol. III of this Code.

³ This section was substituted for the former s. 38 by the Bengal Village Chaukdari (Amendment) Act, 1893 (Ben. Act 1 of 1893), s. 18, in Vol. III of this Code.

(Secs. 40-43.)

8th.—he shall report to the officer aforesaid the death or absence for more than two consecutive months of any member of the *panchayat*;

9th.—he shall supply any local information which the District Magistrate or any officer of police may require;

10th.—he shall obey the orders of the *panchayat* in regard to keeping watch within his village and other matters connected with his duties as *chaukidar*;

11th.—he shall assist the person collecting the rate in making such collection.

Procedure on
arrest by
chaukidars.

40. Whenever the *chaukidar* may arrest any person, such *chaukidar* shall forthwith take the person so arrested to the police-station within the limits of which such village is situate:

Provided that, if the arrest is made at night, such person shall be so taken, as soon as convenient, on the following morning.

Control of
chaukidars by
panchayat.

41. The *panchayat* shall exercise a general control over the *chaukidars* and every member of such *panchayat* who may know or be informed of the commission within the village of any offence specified in Schedule B of this Act shall forthwith cause the same to be reported by the *chaukidar* to the officer in charge of the police-station within the limits of which the village may be situate, and, on failure of the *chaukidar*, such member shall himself report the same ¹[or cause the same to be reported] to such officer.

Fines and
penalties to be
credited to
District
Chaukidari
Reward Fund.

² 42. All fines and penalties levied under this Act shall be credited to a District *Chaukidari* Reward Fund, the control over which shall rest with the District Magistrate.

Mode of pay-
ing *chauki-
dars*.

³ 43. Every *chaukidar* shall receive, quarter by quarter, the full amount of his salary from such officer ⁴[as the Local Government may, by rules made under this Act, prescribe or direct.]

¹ These words in square brackets in s. 41 were inserted by the Bengal Village Chaukidari (Amendment) Act, 1898 (Ben. Act I of 1898), s. 9, post, p. 975.

² This section was substituted for the original s. 42 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892), s. 14, in Vol. III of this Code. The original s. 42 ran as follows:—

"42. All fines and penalties levied under this Act shall be carried to the credit of the Village Chaukidari Fund and be applied as a portion thereof."

³ This section was substituted for the original s. 43 by the Bengal Village Chaukidari (Amendment) Act, 1894 (Ben. Act I of 1894), s. 10, post, p. 976. The original s. 43 ran as follows:—

"43. Every *chaukidar* shall receive, month by month, the full amount of his salary from the number of the *panchayat* appointed to collect the tax."

⁴ These words in square brackets in s. 43 were substituted for the words "or persons as the Magistrate shall appoint" by the Bengal Village Chaukidari (Amendment) Act, 1897 (Ben. Act I of 1897), s. 14, in Vol. III of this Code.

(Secs. 44-46.)

¹44. Within thirty days after the end of each quarter, every *panchayat* shall pay or remit to such officer or person ²[as the Local Government may prescribe or direct] under the last foregoing section a sum equal to the pay of the *chaukidar* for the quarter, or any smaller amount which may stand to the credit of the *Chaukidari* Fund of the village.

Panchayat to pay or remit quarterly amount for payment of chaukidars, etc.

45. If it shall appear to the ³[District Magistrate] that there is no money to the credit of the Village *Chaukidari* Fund, and that the *panchayat* shall not have taken sufficient steps to realize from defaulters the arrears due from them, the ⁴[District Magistrate] ⁵[may issue his warrant] for the realization of the *chaukidar's* pay from the members of the *panchayat* by distress and sale of their movable property, and shall therein charge some person, therein named, with the execution thereof;

Mode of realizing chaukidar's salary.

and upon such warrant such proceedings shall be had as hereinbefore directed to be had on any writing issued for the recovery of any arrears of the tax by this Act directed to be levied;

and the amount due to such *chaukidar* shall be paid to him out of the amount so levied, and the residue thereof, after payment thereof of all costs and expenses incurred in or about the execution of such warrant, shall be paid to the persons from whom such distress shall have been so levied.

⁶[An application for the appointment of a *tahsildar* under section 46A shall not of itself be deemed a sufficient step to realize from defaulters the arrears due from them.]

46. Any member of a *panchayat*, from or by whom any sum shall have been levied or paid under the provisions of the section last preceding, shall be reimbursed the amount so levied from or paid by him from any surplus of the Village *Chaukidari* Fund which may remain at the end of the year in which such sum shall have been so levied or paid.

Reimbursement of member of panchayat by whom salary is paid.

¹ This section was substituted for the original s. 44 by the Bengal Village Chaukidari (Amendment) Act, 1896 (Ben. Act 1 of 1896), s. 11, *post*, p. 976. The original s. 44 ran as follows:—

"44. Whenever the salary of any month shall not be paid in full to any *chaukidar* on or before the 15th of the month following, such *chaukidar* may apply to the Magistrate, who shall call upon the *panchayat* within 10 days to show cause why they should not pay the amount due to such *chaukidar*."

² These words in square brackets in s. 44 were substituted for the words "as the Magistrate may appoint" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 16, in Vol. III of this Code.

³ The words "District Magistrate", in s. 45, were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (2), in Vol. III of this Code.

⁴ The words "may issue his warrant" in s. 45 were substituted for the words "shall issue his warrant" by the Bengal Village Chaukidari (Amendment) Act, 1896 (Ben. Act 1 of 1896), s. 19, *post*, p. 976.

⁵ This paragraph was added to s. 45 by the Bengal Village Chaukidari (Amendment) Act, 1896 (Ben. Act 1 of 1896), s. 13, *post*, p. 976.

(Secs. 46A-47.—Part II.—*Chaukidari Chakaran Lands*.—
Sec. 48.)Appointment
of *tahsildar*.

46A. The District Magistrate may at any time, on the application of the *panchayat* of any village, or of his own motion if, in his opinion, the collection of the rate is badly carried out, or if the *chaukidar* is not regularly paid, appoint a *tahsildar* to assist the person collecting the rate; and such *tahsildar* shall exercise all the powers vested in the *panchayat* for the collection of the said rate; and the District Magistrate shall, on a like application, and he may of his own motion, revoke such appointment.

Remuneration
of *tahsildar*.

46B. Every *tahsildar* appointed under the last foregoing section shall be remunerated at such rate and in such manner as the '[District Magistrate] may, from time to time, with the sanction of the Commissioner of the Division, prescribe; and such remuneration shall be levied from those who have failed to pay their *chaukidari* assessments in the same manner and in the same proportion as the *chaukidari* assessment:

Power to re-
vise assess-
ment.

Provided that one *tahsildar* may, in the discretion of the '[District Magistrate], be appointed for more than one village.

47. If it shall appear to the '[District Magistrate] that the deficiency of the funds to the credit of the Village *Chaukidari* Fund has been caused by an erroneous assessment, the '[District Magistrate] shall call for the assessment and revise the same as he shall think proper, and shall remit the same to the *panchayat*, and such *panchayat* shall forthwith proceed to levy the sums respectively appearing to be due by such revised assessment.

‘PART II.

*Chaukidari Chakaran Lands.**Chaukidari*
chakaran
lands to be
transferred to
zamindars.

48. All *chaukidari chakaran* lands before the passing of this Act assigned for the benefit of any village in which a *panchayat* shall be appointed shall be transferred in manner and subject as hereinafter mentioned to the *zamindar* of the estate or tenure within which may be situate such lands.

¹ This section was substituted for the former s. 46A by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 3 of 1892), s. 17, in Vol. III of this Code. The former section ran as follows:—

“46A. The Magistrate may at any time, on the application of the *panchayat* of any village, appoint a *tahsildar* in such village to assist the collecting member of such *panchayat*, and such *tahsildar* shall exercise all the powers vested in the *panchayat* for the collection of the *chaukidari* assessment, and the Magistrate shall, on a like application, revoke such appointment.”

² S. 46B was inserted by the Bengal Village Chaukidari (Amendment) Act, 1886 (Ben. Act 1 of 1886), s. 13, post, p. 574.

³ The words “District Magistrate” in ss. 46B and 47 were substituted for the word “Magistrate” by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 3 of 1892), s. 2 (2), in Vol. III of this Code.

⁴ As to the application of Part II to *Chaukidari Chakaran* lands assigned before the commencement of this Act to the lands of any part of a municipality, see the Bengal Municipal Act, 1884 (Ben. Act 2 of 1884), s. 264, post, p. 258.

[1870.]

(Part II.—Chaukidari Chakaram Lands.—Secs. 49-54.)

49. All lands so transferred shall be subject to an assessment which shall be fixed at one-half of the annual value of such land according to the average rates of letting land similar in quality in the neighbourhood of such land, and such assessment shall be made by the *panchayat* of the village.

Assessment
to be fixed at
one-half of
value.

50. Such assessment when made by the *panchayat* shall be submitted to the Collector of the district, and he or any other officer exercising the powers of a Collector by him thereunto appointed may approve, or revise and approve, the same (provided that it shall be lawful for the *zamindar* to contest the assessment before it is so approved), and after such approval the Collector of the district shall, by an order under his hand in the form in Schedule C, transfer to such *zamindar* such land subject to the assessment so approved.

Collector to
make transfer.

51. Such order shall operate to transfer to such *zamindar* the land therein mentioned subject to the amount of assessment therein mentioned, and subject to all contracts theretofore made, in respect of, under, or by virtue of, which any person other than the *zamindar* may have any right to any land, portion of his estate, or tenure, in the place in which such land may be situate.

Effect of
transfer.

52. The amount of the assessment mentioned in such order shall be a permanent yearly charge on such land, and shall be payable to the collecting member of the *panchayat* yearly in advance on the first day of the year current in the village by the person for the time being entitled to recover the rents of such land from the occupier thereof.

Assessment to
be permanent
charge on
lands.

53. Every such assessment shall be deemed to be a demand to be realized in the manner hereinafter provided.

Mode of real-
ization.

54. Whenever such assessment shall be in arrear for the space of fifteen days after it shall have become payable, the collecting member of the *panchayat* shall forward to the Collector of the district in which the land so assessed is situate notice of the amount of such arrear and the name of the person liable to pay such assessment, in the form in Schedule D annexed to this Act.

Notice of
arrear.

55. Immediately after the receipt of the said notice the Collector or other officer authorized to hold sales under the law for the time being in force for regulating sales of land for arrears of revenue shall proceed, without any preliminary notice for payment, to issue a notification for sale under section 6 of Act 11 of 1859,¹ passed by the Legislative Council of India;

Mode and
effect of sale.

and, unless the arrears be paid within the time mentioned in such notification, shall sell such land according to the provisions of such law as if such land were an estate within the meaning of Act 7 of 1868² passed by the Lieutenant-Governor of Bengal in Council;

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. 1 of this Code.
² The Bengal Land-revenue Sales Act, 1868. It is printed ante, p. 157.

(Part II.—Chaukidari Chakaram Lands.—Secs. 56-60.)

and all provisions of the law for the time being in force with respect to the sale of such estates shall apply to the sale of such land, and every such sale shall have such and the same force and effect as if the same were a sale of an estate for arrears of its own revenue, and such land shall be held by the purchaser thereof subject to such assessment, but freed from all other charges and incumbrances save those to which he would have been liable if the said land had been an estate sold for arrears of its own revenue.

Application
of proceeds
of sale.

56. Such Collector shall, out of the proceeds of such sale, after defraying the costs of and attending such sale, pay to the collecting member of the *panchayat*, within one week after such sale shall have become final, the amount due for arrears of such assessment, and pay the balance of such proceeds to the person named in the notice from the collecting member of the *panchayat* as the person liable to pay the assessment of such land.

Right to ser-
vice from
occupier of
transferred
land to cease.

57. When any land shall have been transferred to any *zamindar* under the provisions hereinbefore contained, the right to the performance of any services to any person by the occupier of such lands in respect of his occupation thereof shall wholly cease and determine.

Appointment
of commis-
sion.

58. In any district or part of a district in which may be situated lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for the Lieutenant-Governor of Bengal,¹ by an order² to be published in the Calcutta Gazette, to appoint a commission, consisting of one or more persons, to ascertain and determine the *chaukidari chakaram* lands and other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police in such district.

Power to
refer to com-
mission ques-
tion relating
to *chakaram*
land.

59. Whenever in any district in which such commission shall have been appointed, any question shall arise whether any or what lands are *chaukidari chakaram* lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, it shall be lawful for such commission to inquire into such question.

Powers of
commission.

60. In inquiring into such question the commission shall, as far as may be necessary for the purposes of this Act, exercise all such and the same powers as are conferred by Regulation 7 of 1822³ and the Regulations and Acts amending the same upon a Collector making a settlement of land-revenue.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of orders made under section 58 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. I of this Code.

(Part II.—*Chaukidari Chakaran Lands*.—Part III.—*Miscellaneous Provisions*.—Secs. 61-63.)

61. Such commission shall demarcate the boundaries of any lands which they may determine to be *chaukidari chakaran* lands or other lands before the passing of this Act assigned for the maintenance of an officer to keep watch in any village and to report crime to the police, and shall make orders under their hand setting forth the land which they shall have determined to be *chaukidari chakaran* lands or other lands as aforesaid, and the boundaries thereof, and the name of the village for the benefit of which such lands are assigned, and distinguishing whether such land be or be not *chaukidari chakaran* lands or other lands as aforesaid.

Duties of commission and effect of their order.

Every such order shall be final and conclusive respecting all matters hereinbefore required to be set forth in such order so far as the same shall be therein set forth.

PART III.

MISCELLANEOUS PROVISIONS.

62. All powers vested in the *panchayat* for the nomination and dismissal of *chaukidars* and for making the assessments hereinbefore directed to be made may, in case the *panchayat*, after a notice in writing from the District Magistrate to exercise such powers, or any of them, refuse or, after the lapse of a reasonable time in that behalf, neglect forthwith to exercise the same, be exercised by the District Magistrate.

Powers of the Panchayat may be exercised by the District Magistrate.

63. No action shall be brought against the [District Magistrate], nor against any *panchayat*, nor against any member thereof, nor against any of his or their officers, nor against any person acting under his or their direction,

Indemnity clause.

for anything done or professing or purporting to be done under this Act,

until the expiration of one month next after notice in writing shall have been delivered or left at the office of the [District Magistrate] and at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff;

¹ This section was substituted for the original s. 62 by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892), s. 18, in Vol. III of this Code. The original s. 62 ran as follows:—

"62. All powers vested in the *panchayat* for the appointment and dismissal of *chaukidars* and for fixing the number of *chaukidars*, to be appointed, and the rate of their pay, and for making and levying the assessments hereinbefore directed to be made, may be exercised by the Magistrate or any person whom the Magistrate may, by any writing under his hand, authorize in that behalf, in case the *panchayat* shall, for fifteen days after a notice from the Magistrate to exercise such powers or any of them, refuse or neglect to exercise the same."

² The words "District Magistrate", in s. 63, were substituted for the word "Magistrate" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act I of 1892), s. 2 (2), in Vol. III of this Code.

(Part III.—Miscellaneous Provisions.—Secs. 64-68.)

and, unless such notice be proved, the court shall find for the defendant;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards;

and, if any person to whom any such notice of action is given shall before action brought tender sufficient amends to the plaintiff, such plaintiff shall not recover.

control
vested in
Commissioner
of Circuit.

rules for
guidance of
such panchayat.

64. The Commissioner of Circuit shall have a general controlling power over all proceedings of *panchayats* and [District Magistrates] under this Act.

65. The Lieutenant-Governor of Bengal¹ may, from time to time, frame rules² for the guidance of the *panchayats*, for regulating the practice and procedure of any commission in trying or determining any question referred to them, and for any other purposes connected with this Act, and may, from time to time, alter, vary, or revoke the same, and shall publish every such rule or alteration, variation or revocation of a rule in the Calcutta Gazette; and the rules for the time being in force shall, from their publication, have such and the same force and effect as if they were herein enacted.

duty of zamindars to report crimes not affected.

66. Nothing in this Act contained shall diminish or in any way affect any liability, duty or obligation of any *zamindar*, under any law in force at the time of the passing of this Act to report crimes or offences occurring within his estate or tenure.

Village
watch where
panchayat
not
appointed,
not affected.

67. Nothing in the Act contained, save the provisions of sections 58, 59, 60 and 61, shall affect any lands before the passing of this Act assigned for the maintenance, in any village in which a *panchayat* may not be appointed, of an officer to keep watch in such village and to report crime to the police, and every such officer in such village shall be bound to perform the same duties, and shall have the same rights unto such lands, and may be removed and a successor to him appointed, as if this Act had not been passed.

Commence-
ment.

68. This Act shall commence and take effect in those districts or sub-divisions of districts in the provinces subject to the Lieutenant-Governor of Bengal³ to which the said Lieutenant-Governor³ shall extend it by an order⁴ published in the Calcutta Gazette; and thereupon this Act shall commence

¹ The words "and Magistrates," which were repealed by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (3), are omitted.

² The words "District Magistrates" in s. 64 were substituted for the words "Magistrates of Districts" by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 2 (3), in Vol. III of this Code.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

⁴ For list of rules made under s. 65 for Bengal as constituted on the 13th March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ This includes the present Presidency of Fort William in Bengal and other territory.

⁶ For a list of orders made under s. 68 for Bengal as constituted on the 13th March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part III.—Miscellaneous Provisions.—Sec. 69.—
Schedules A and B.)

and take effect in the districts and sub-divisions of districts named in such order, on the day which shall be in such order provided for the commencement thereof.

69. This Act may be called the Village Chaukidari Act, Short title,
1870.

SCHEDULE A.

(Referred to in section 27.)

Form of Distraining Warrant.

Act 6 of 1870.

VILLAGE Chaukidari FUND.

On behalf of the *panchayat* of (). Whereas the several persons named in the list at foot hereof have made default in payment to the said *panchayat* of the sums in the said list set opposite to their respective names, you are hereby authorized and required to levy by distress and sale of a sufficient portion of the movable property of the said defaulters the said several sums set opposite to their respective names together with the additional sums by way of penalty respectively, equal to the sums set forth. Dated day of 18 .

(Sd.) R. B.,

Collecting member.

Name and description.	Amount.	When due.	Penalty.
B. G.	1-0	1 <i>Baisakh</i>	1-0
K. B.	0-2	1 „	0-2

¹ SCHEDULE B.

(Referred to in sections 39 and 41.)

Offences to be reported and for which a chaukidar may arrest.

Murder, culpable homicide, rape (when the offender is not the husband of the woman raped), dacoity, robbery, theft, mischief by fire, house-breaking, counterfeiting coins, causing grievous hurt, riot, administering stupefying drugs, kidnapping, and all attempts and preparations to commit, and abettments of the said offences.

¹ This Schedule was substituted for the original Schedule B by the Bengal Village Chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 12, in Vol. III of this Code.

(Schedules C and D.)

SCHEDULE C.

(Referred to in section 50.)

Form of Transferring Order.

District of
I, Collector of
do by this order under my hand made in pursuance of Act 6
of 1870, passed by the Lieutenant-Governor of Bengal in
Council, transfer to , zamindar of
, the *chaukidari chakaran* lands of the
village of , in the said
bounded and containing bighas
cottahs; to hold unto the said his heirs and assigns
subject to the annual assessment of rupees payable under
the provisions of the said Act to the *Chaukidari* Fund of the
said village and also subject to all contracts binding the
said in respect of any lands, portion of the said
situated within the said village.
The day of 18 .

(Sd.) J. S.

Collector of

SCHEDULE D.

(Referred in section 54.)

Form of Notice of Arrears of Assessment on Land.

Panchayat of

To A. B., Esq., Collector of

SIR,

I hereby notify to you that the sum of Rs. being for
one year's assessment payable in respect of the *chaukidari*
chakaran lands of this village transferred to the *zamindar* of
became due on the
day of and that the same is still unpaid, and
that of is the person liable to pay such assessment,
The day of

(Sd.) B. F.,

Collecting Member of Panchayat.

BENGAL ACT 1 OF 1871

(THE BENGAL VILLAGE CHAUKIDARI ACT, 1871)¹.

(25th January, 1871.)

An Act to amend the Village Chaukidari Act, 1870.²

: 6 of

Whereas it is expedient to amend the provisions of the Village Chaukidari Act, 1870³; It is enacted as follows:—

Preamble.

1. Nothing in the said Act shall be held to repeal the provisions of section 21. Regulation 20 of 1817⁴ in any village or union until a *chaukidar* shall have been appointed therein under the provisions of the said Act.

Act not to apply till *chaubidar* appointed.

2. Whenever a *panchayat* shall have been appointed in any village, the Magistrate may direct that such *panchayat* shall, within one month after their appointment, make an assessment for the residue of the year according to the year current in the village, upon the persons liable to the payment of the *chaukidari* rate in such village, and shall enter the same in a list containing the particulars required to be set forth in the list mentioned in section 16 of the said Act.

Panchayat in certain cases to make assessment within one month.

Such list shall, on its completion, be forthwith published in some conspicuous part of the said village.

3. Every assessment so made shall commence and take effect upon the expiration of fifteen days from the publication of such list.

Commencement of assessment.

4. Every such assessment shall be deemed to be an assessment made in pursuance of the provisions of the said Act, and the amounts thereby assessed may be collected and enforced accordingly.

Effect of assessment.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1870, p. 2316; and for Proceedings in Council, see *ibid*, Supplement, 1870, pp. 777, 780, 887; *ibid*, Supplement, 1871, page 27.

LOCAL EXTENT.—This Act is to be read with, and as part of, the Village Chaukidari Act, 1870 (Ben. Act 6 of 1870)—see s. 7, *post*, p. 194. Its local extent is therefore the same as that of the latter Act, as to which see footnote ¹ on p. 175 *ante*.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4(2), printed in Vol. I of this Code.

² Printed *ante*, p. 175.

³ The Bengal Police Regulation, 1817. It has now been wholly repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), in Vol. III of this Code.

(Secs. 5-7.)

Rate
payable
quarterly
instead of
monthly.

5. In section 21 of the said Act 6 of 1870¹, the word "quarterly" shall be substituted for the word "monthly," and in sections 21 and 26 the word "quarter" shall be substituted for the word "month" wherever such word occurs in the said sections; and the said sections shall be read and construed as if the words hereby directed to be substituted had been originally inserted in place of the words for which they are hereby respectively directed to be substituted.

6. (*New clause substituted in section 39 of Ben. Act 6 of 1870. Rep. by the Repealing and Amending Act, 1897 (5 of 1897).*)

Construction.

7. This Act shall be read with, and as part of, the said Act 6 of 1870.¹

¹ The Village Chaukidari Act, 1870. It is printed *ante* p. 175.

BENGAL ACT 2 OF 1871

THE BENGAL LAND-REVENUE SALES (AMENDMENT) ACT.

(25th January, 1871.)

**An Act to amend the procedure for the recovery of arrears
of land revenue in respect of tenures not being estates.**

Whereas it is expedient to amend the procedure for the recovery of arrears of land revenue in respect of tenures not being estates; It is enacted as follows:—

Preamble.

Act 7 of 1868, passed by the Lieutenant-Governor of Bengal in Council, shall be read and construed as if in place of section 11 thereof the following section were inserted and substituted:—

Constructio
of Act.

11. (Printed *ante*, p. 160.)

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I. of this Code. That Act is now known as the Amending Act, 1938—*vide* Act 10 of 1914, Sch. 11.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1870, page 2467; and for Proceedings in Council, see *ibid*, Supplement, 1870, pages 777 and 686; *ibid*, Supplement, 1871, page 30.

LOCAL EXTENT.—Since this Act has no local extent clause, and merely amends the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), it has the same local extent as that Act, and the Bengal Land-revenue Sales Act, 1859 (11 of 1859), printed in Vol. I of this Code.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4(2), printed in Vol. I of this Code.

BENGAL ACT 4 OF 1871

(THE PCM LODGING-HOUSE ACT, 1871).

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BENGAL ACT 4 OF 1871

(THE PURI LODGING-HOUSE ACT, 1871)¹.

(5th April, 1871.)

'An Act for the better sanitation of Puri and regulation of lodging-houses therein.

'An Act for the better sanitation of Puri and other towns in Orissa and regulation of lodging-houses therein.

Preamble.

'Whereas it is expedient to make provision for the licensing and regulation of pilgrims' lodging-houses at Puri, and on the main lines of road leading to Puri, and for the better sanitation of Puri * * * *';

'Whereas it is expedient to make provision for the licensing and regulation of pilgrims' lodging-houses at Puri and on the main lines of road leading to Puri, and for the better sanitation of Puri and other towns in Orissa;

Preamble.

It is enacted as follows:—

It is enacted as follows:—

1. The words and expressions following shall, in this Act, have and bear the meanings and construction hereby assigned to them, unless there be something in the subject or context repugnant to such meaning or construction, that is to say:—

Interpretation.

Lodger."

'the word "lodger" shall mean *a pilgrim* liable to pay

'the word "lodger" shall mean *an inmate* liable to pay

"Lodger."

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1871, page 162, and for Proceedings in Council, see *ibid*, Supplement, 1871, pages 28, 80, 127, 150 and 165.

LOCAL EXTENT.—This Act extends *proprio vigore* only to (1) Puri and (2) main lines of road leading to Puri—see the preamble and s. 2. Power was given by section 89 to extend the Act to certain other places; but that power, it is understood, was never exercised, and the section has since been formally repealed.

Ben. Act 2 of 1879, s. 3 (*post*, p. 388), empowers the Local Government to extend Ben. Act 4 of 1871, or any part thereof, by notification, to any town or place to or through which people go on pilgrimage, and to the lines of road leading thereto. When so extended, certain portions of the Act of 1871 are subject to modification—see Ben. Act 2 of 1879, s. 3, *post*, p. 388.

For a list of places to which Ben. Act 4 of 1871, as amended by Ben. Act 2 of 1879, has been extended under s. 3 of the latter Act, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

The application of Ben. Act 4 of 1871 is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (f), in Vol. I of this Code.

OTHER ENACTMENTS.—For Indian enactments in force in Bengal as to the carriage of pilgrims by sea, see—

- (a) the Native Passenger Ships Act, 1887 (10 of 1887), in General Acts, 1887-97, Ed. 1909, p. 26;
- (b) the Pilgrim Ships Act, 1898 (14 of 1898), in General Acts, 1887-97, Ed. 1909, p. 497, and
- (c) the Protection of Muhammadan Pilgrims Act, 1896 (Ben. Act 1 of 1896), ss. 9 to 17, in Vol. III of this Code.

For references to enactments giving control over the spread of infectious disease, see head "Infectious diseases" in the Index to the Indian Statutes, Ed. 1911, p. 267.

²The title and preamble are in force in this form in Western Bengal.

³The words "and other towns in Orissa," in the title and preamble, were repealed, in Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 2, and are omitted.

⁴The title and preamble are in force in this form in Eastern Bengal.

⁵The differences in the title and preamble as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁶The definition of "lodger" is in force in this form in Western Bengal.

The differences in this definition, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁷The words "a pilgrim" in italics in s. 1 were substituted, in Western Bengal, for the words "an inmate" by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 3 (f), in Vol. III of this Code.

⁸The definition of "lodger" is in force in this form in Eastern Bengal.

(Secs. 2, 3.)

hire for accommodation in any house; *and shall include a person who pays or delivers to his Panda, or to any other person on behalf of his Panda, money in a lump sum, or property, or both, in consideration for the provision of accommodation and bodily comforts by such Panda or other person in any place other than the place of residence of such Panda;* hire for accommodation in any house;

"Owner."

the word "owner" shall mean the person entitled to the immediate possession of any house;

"Lodging-house."

the expression "lodging-house" shall mean a house licensed under this Act for the reception of lodgers;

"Keeper of a lodging-house."

the expression "keeper of a lodging-house" shall mean the person to whom a license for the reception of lodgers in any house under this Act shall be granted;

"The Magistrate."

the expression "the Magistrate" shall mean the Magistrate of the district¹ of Puri or of any other district or part of a district to which this Act may be extended, or other officer in charge of the office of such Magistrate, or specially invested² with power under this Act;

"The Health Officer."

the expression "the Health Officer" shall mean the person whom the Lieutenant-Governor of Bengal³ shall appoint under this Act.

Appointment of Health Officer.

2. The Lieutenant-Governor of Bengal⁴ is hereby empowered to appoint⁵ a Health Officer to control and direct the sanitation and conservancy of the town of Puri⁶ and of the main lines of road leading thereto.

Power to Magistrate to grant license.

3. *It shall be lawful for the Magistrate, upon the application of the owner of any house in the town of Puri⁷ to grant to such applicant a license for the reception of lodgers in his said house, if the Magistrate be satisfied that such house is fit to be used as a lodging-house.*

¹ These words in italics in s. 1 were added, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 3 (2), in Vol. III of this Code.

² Now District Magistrate—see the Code of Criminal Procedure, 1898 (5 of 1898), s. 3 (2), in General Acts, 1898-04, Ed. 1900, p. 40.

³ For an order made under this power for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁵ For a list of appointments made under section 2 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ In places to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act 2 of 1879), s. 3, the name of the place concerned is substituted for "Puri" in ss. 2 and 3—see Ben. Act 2 of 1879, s. 3, post, p. 368.

⁷ Formal words in s. 3, which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

(Secs. 4-6.)

Form of
application
for license

4. The application for such license as in the preceding section is mentioned shall be in writing, and shall be *in such form as the Lieutenant-Governor¹ may, by notification,² prescribe in this behalf,* and shall be subscribed and verified by the applicant at the foot or end thereof in the manner provided by law³ for the verification of plaints.

Form of
license

The license for the reception of lodgers to be granted by the Magistrate under this Act shall be *in such form as the Lieutenant-Governor¹ may, by notification,² prescribe in this behalf.*

4. The application for such license as in the preceding section is mentioned shall be in writing, and shall be *in the form set forth in Schedule A of this Act,* and shall be subscribed and verified by the applicant at the foot or end thereof in the manner provided by law³ for the verification of plaints.

Form of
application
for license

The license for the reception of lodgers to be granted by the Magistrate under this Act shall be *in the form set forth in Schedule B of this Act.*

Form of
license

5. The Health Officer shall, when required by the Magistrate or the owner of any house, certify to the Magistrate the sanitary state and condition of such house, and the nature and extent of the accommodation which such house is capable of affording to lodgers.

Health Officer
when required
to report upon
lodging-
house.

6. No license for the reception of lodgers shall be granted under this Act by the Magistrate, unless the Health Officer shall certify in writing under his hand to the Magistrate that in his judgment the house, for the licensing of which for the reception of lodgers application shall have been made as aforesaid, is sufficiently ventilated, and has, within a reasonable distance from such house, a sufficient supply of water fit for human consumption, and also sufficient privy accommodation, and is otherwise fit for the reception of lodgers.

Restrictions
on power of
granting
license.

The said Health Officer shall also certify to the Magistrate the largest number of lodgers which such house can, having regard to the number of persons permanently residing therein, accommodate with safety to the health of such lodgers; and no license under this Act shall be granted by the Magistrate for the reception in any house of any number of lodgers in excess

¹ Section 4 is in force in this form in Western Bengal.

The differences in s. 4, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

² These words in italics in s. 4 were substituted in Western Bengal, for the words "in the form set forth in Schedule A of this Act," by the Puri Lodging-house (Amendment) Act, 1906 (Ben. Act 3 of 1906), s. 4 (a), in Vol. III of this Code.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

⁴ For a notification issued under section 4, for Bengal as constituted in the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ See the Code of Civil Procedure (Act 5 of 1906), Sch. I, Order VI, rule 15, in General Acts, 1904-09, Ed. 1909, p. 228.

⁶ These words in italics in s. 4 were substituted, in Western Bengal, for the words "in the form set forth in Schedule B of this Act," by the Puri Lodging-house (Amendment) Act, 1906 (Ben. Act 3 of 1906), s. 4 (b), in Vol. III of this Code.

⁷ Section 4 is in force in this form in Eastern Bengal.

(Secs. 7, 8.)

of the number of lodgers which the Health Officer shall have so certified as aforesaid to be the largest number which such house could accommodate with safety to the health of such lodgers.

Fine on
lodging-house
keeper not
taking out
license.

7. . . . Every owner of any house in the town of Puri,¹ not licensed as a lodging-house under this Act, who shall suffer or permit any lodger to be an inmate of such house, shall be punished by a fine not exceeding *five rupees* for every lodger for each *day* or night during any part of which such lodger shall be an inmate of such house.

Fee for
Health
Officer's
certificate,
and for
license.

8. There shall be charged upon every certificate of the Health Officer, issued upon an application therefor by the owner of any house, a fee of one rupee; and upon every license *a fee shall be payable, calculated upon the entire number of lodgers which is mentioned in the certificate, at such rate, not exceeding one rupee for each lodger, as the Lieutenant-Governor¹⁰ may, by notification,¹¹ direct.*

7. . . . Every owner of any house in the town of Puri,¹ not licensed as a lodging-house under this Act, who shall suffer or permit any lodger to be an inmate of such house, shall be punished by a fine not exceeding *two* rupees for every lodger for each *night* during any part of which such lodger shall be an inmate of such house.

Fine on
lodging-house
keeper not
taking out
license.

8. There shall be charged upon every certificate of the Health Officer issued upon an application therefor by the owner of any house, a fee of one rupee; and upon every license, *a fee, calculated at the rate of eight annas¹² for each person, upon the entire number of lodgers mentioned in such license shall be payable.*

Fee for
Health
Officer's
certificate
and for
license

¹ Section 7 is in force in this form in Western Bengal.

The differences in s. 7, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

² Formal words which were repealed by the Repealing and Amending Act, 1903 (1 of 1903), are omitted.

³ In places to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act. 2 of 1879), s. 3, the name of the place concerned is substituted for "Puri" in s. 7—see Ben. Act. 2 of 1879, s. 3, post, p. 383.

⁴ This word "five" in s. 7 was substituted, in Western Bengal, for the word "two," by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act. 3 of 1908), s. 5 (a), in Vol. III of this Code.

⁵ The words "day or" in s. 7 were inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act. 3 of 1908), s. 5 (b), in Vol. III of this Code.

⁶ Section 7 is in force in this form in Eastern Bengal.

⁷ In places in Eastern Bengal to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act. 2 of 1879), s. 3, the words "day or" are inserted after this word "each" in s. 7—see Ben. Act. 2 of 1879, s. 3, post, p. 383.

⁸ Section 8 is in force in this form in Western Bengal.

The difference in s. 8, as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

⁹ These words in italics in s. 8 were substituted, in Western Bengal, for the words "a fee, calculated at the rate of eight annas for each person upon the entire number of lodgers mentioned in such license shall be payable," by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act. 3 of 1908), s. 5, in Vol. III of this Code.

¹⁰ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

¹¹ For a list of notifications issued under s. 8 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

¹² Section 5 is in force in this form in Eastern Bengal.

¹³ In places in Eastern Bengal to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act. 2 of 1879), s. 3, for the words "the rate of eight annas" in s. 8, the words "a rate not exceeding one rupee" are substituted—see Ben. Act. 2 of 1879, s. 3, post, p. 383.

of 1871.]

(Secs. 9, 10.)

Duration of
license.

¹9. Every license under this Act shall, unless revoked or suspended, continue and be in force *'till the thirty-first day of December of the year in which it is granted.*

Power to
inspect
lodging-
houses.

10. 'It shall be lawful for the Magistrate or the Health Officer, or for any other person whom the Magistrate shall by any writing thereunto authorize, at any . . . time to enter into any lodging-house, and to inspect and examine the same and every part thereof, not being in the exclusive use and occupation of women who, according to the custom and manners of the country, ought not to be compelled to appear in public:

Provided always that if, in the judgment of the Magistrate, such reason shall exist as to necessitate an entry into, and inspection and examination of, such apartments so exclusively used and occupied by such women as aforesaid, it shall be lawful for the Magistrate, upon reasonable notice of such his intention being affixed to the house in which such women are residing, to enter into and inspect and examine, or to authorize under his hand any other person to enter into and inspect and examine, such apartments of such women as aforesaid.

⁷Provided, further, that no entry, inspection or examination shall be made between the hours of 9 P.M. and 6 A.M. except by—

- (a) the Magistrate himself.
- or
- (b) the Health Officer, if he is also the Civil Medical Officer of the district, or

Duration of
license.

¹9. Every license under this Act shall, unless revoked or suspended, continue and be in force *for twelve calendar months from the day of its date.*

Power to
inspect
lodging-
houses.

10. 'It shall be lawful for the Magistrate or the Health Officer, or for any other person whom the Magistrate shall by any writing thereunto authorize, at any *reasonable* time to enter into any lodging-house, and to inspect and examine the same and every part thereof, not being in the exclusive use and occupation of women who, according to the custom and manners of the country, ought not to be compelled to appear in public:

¹ Section 9 is in force in this form in Western Bengal.

The difference in s. 9 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

² These words in italics in s. 9 were substituted, in Western Bengal, for the words "for twelve calendar months from the day of its date" by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 7, in Vol. III of this Code.

³ Section 9 is in force in this form in Eastern Bengal.

⁴ This paragraph of s. 10 is in force in this form in Western Bengal.

⁵ The word "reasonable," in s. 10, was repealed, in Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 8 (2), and is omitted.

The difference in the first paragraph of s. 10 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

⁶ This paragraph of s. 10 is in force in this form in Eastern Bengal.

⁷ This proviso was added to s. 10, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 8 (2), in Vol. III of this Code.

(Secs. 11-13.)

(c) an officer, not below the rank of Sub-Deputy Magistrate or Sub-Deputy Collector, who is authorized in writing in this behalf by the Magistrate.

Power to exempt lodging-house from inspection.

11. It shall be lawful for the Magistrate to exempt from inspection the house or portion of a house occupied by any lodger, so long as they shall be occupied by such lodger, or until further order by the Magistrate.

Persons authorized to inspect deemed public servants.

¹11A. Every person who is authorized in writing under section 10 to enter into, inspect and examine any lodging-house shall be deemed to be a public servant within the meaning of the Indian Penal Code.²

45 of 1890.

Keeper of lodging-house to produce license.

12. Every keeper of a lodging-house shall produce to the Magistrate, or any officer by the Magistrate authorized to demand the same, the license of such house, whenever he shall be thereunto required by the Magistrate or such officer.

Keeper of lodging-house to record name of person left in charge.

³12A. Every keeper of a lodging-house shall maintain a register, and shall record therein the name of the person whom he leaves actually in charge of the lodging-house during each period when such keeper is absent therefrom.

Keeper of lodging-house to report accidents, deaths and sickness, and names of persons in lodging-house.

⁴13. Every keeper of a lodging-house shall make a report, to the person in charge of the nearest police-station, of each birth, death, or grave accident, or serious sickness which may occur in the lodging-house of which he is keeper, forthwith after such

⁵13. Every keeper of a lodging-house shall make a report, to the person in charge of the nearest police-station, of each birth, death or grave accident, or serious sickness which may occur in the lodging-house of which he is keeper, forthwith after such

Keeper of lodging-house to report accidents, deaths and sickness, and names of persons in lodging-house.

¹ Section 11A was inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act 1906 (Ben. Act 3 of 1906), s. 9, in Vol. III of this Code.

² Printed in the General Acts, 1834-67, Ed. 1909, p. 248.

³ Section 12A was inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1906 (Ben. Act 3 of 1906), s. 10, in Vol. III of this Code.

⁴ Section 13 is in force in this form in Western Bengal.

The only difference in s. 13, as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

⁵ Section 13 is in force in this form in Eastern Bengal.

of 1871.]

(Secs. 14-16.)

birth, death or accident or sickness shall have occurred ; and shall also, every day, during such periods of the year as the Magistrate shall from time to time appoint, before noon, make a report in writing to the person in charge of such station, stating the number of persons who shall have been ¹*lodgers* of such lodging-house during the preceding night, and distinguishing in such list males from females and adults from children.

birth, death or accident or sickness shall have occurred ; and shall also, every day, during such periods of the year as the Magistrate shall from time to time appoint, before noon, make a report in writing to the person in charge of such station, stating the number of persons who shall have been *inmates* of such lodging-house during the preceding night, and distinguishing in such list males from females and adults from children.

Keeper of lodging-house to expose notice.

² 14. (1) Every keeper of a lodging-house shall *expose*, and keep *exposed*, on a conspicuous portion of the front of such house, *a notice showing* the number of the license and the number of lodgers which *he* is licensed to accommodate.

(2) *Such notice shall be* plainly and legibly *inscribed* in the Bengali, Hindi and Uriya characters.

³ 14. Every keeper of a lodging-house shall *exhibit*, and keep *exhibited*, on a conspicuous portion of the front of such house, the number of the license *of such house* and the number of lodgers which *such person* is licensed to accommodate, plainly and legibly *set forth in Bengali and Uriya* characters.⁴

Lodging-house keeper to exhibit number of house.

15. Upon the inspection and examination of any lodging-house, the Magistrate or Health Officer or other person authorized as aforesaid to make such inspection and examination shall record in a register-book to be kept for that purpose a succinct report of the result of such inspection and examination.

Report to be kept of inspection and examination of lodging-house.

16. Every person who shall make any application, statement or report, in pursuance of the provisions of this Act, shall be deemed to have been bound by express provision of law to state the truth therein.

Statement under Act to be true.

¹ The word "lodgers" in italics in s. 13 was substituted, in Western Bengal, for the word "inmates" by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 11, in Vol. III of this Code.

² This section was substituted for the original s. 14, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 12, in Vol. III of this Code.

The differences in s. 14 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

³ Section 14 is in force in this form in Eastern Bengal.

⁴ In places in Eastern Bengal to which this Act has been extended under the Puri Lodging-house (Extension) Act, 1879 (Ben. Act 2 of 1879), s. 3, the words "in the character of the vernacular of the district" are substituted for the words "in Bengali and Uriya characters" in s. 14—see Ben. Act 2 of 1879, s. 3, *post*, p. 836.

(Sec. 17.)

Penalties

¹17. ²(1) Every keeper of a lodging-house

in which there shall be, at any time, a number of ³*lodgers* in excess of the aggregate number of ⁴*lodgers* resident in such house at the date of the application for the license thereof ⁵or a number of lodgers in excess of the number of lodgers mentioned in such license, or

who shall suffer or permit any person, other than a member of his family or a servant in his actual employ, to be ⁶*a lodger* in his house after the revocation or during the suspension of his license,

⁷shall be liable to be punished by a fine not exceeding five rupees for *each lodger so found*.

¹(2) ⁸Every keeper of a lodging-house

who *refuses or neglects*, without reasonable cause, within one hour after demand, to produce to the Magistrate or other officer as aforesaid the license for his said

⁹17. Every keeper of a ¹⁰Penalties. lodging-house

in which there shall be, at any time, a number of *inmates* in excess of the aggregate number of *inmates* resident in such house at the date of the application for the license thereof *and of the number of lodgers mentioned in such license*, or a number of lodgers in excess of the number of lodgers mentioned in such license, or

who shall suffer or permit any person, other than a member of his family or a servant in his actual employ, to be *an inmate* of his house after the revocation or during the suspension of his license, *or*

who shall *refuse or neglect*, without reasonable cause, within one hour after demand, to produce to the Magistrate or other officer as aforesaid the license for his said

¹ Section 17 is in force in this form in Western Bengal.

The differences in s. 17, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

² This portion of section 17 was re-numbered section 17 (1), for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 13 (1), in Vol. III of this Code.

³ This word "lodgers" in s. 17 was substituted in Western Bengal for the word "inmates" by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 13 (2), in Vol. III of this Code.

⁴ The words "and of the number of lodgers mentioned in such license" in s. 13, were repealed, in Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 13 (3), and are omitted.

⁵ The words "a lodger in" in s. 17 were substituted in Western Bengal for the words "an inmate of" by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 13 (2), in Vol. III of this Code.

⁶ This clause in italics in s. 17 (1) was added, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 13 (4), in Vol. III of this Code.

⁷ This portion of s. 17 was re-numbered sub-section (2), for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 13 (5) (a), in Vol. III of this Code.

⁸ These words in italics in s. 17 (2) were substituted in Western Bengal, for the words "or who shall refuse or neglect," by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 13 (4) (a), in Vol. III of this Code.

⁹ Section 17 is in force in this form in Eastern Bengal.

of 1871.]

(Secs. 18-21.)

lodging-house when he shall be thereunto required, or

who fails, without reasonable cause, to maintain the register prescribed by section 12A, or to make any entry therein which is prescribed by that section, or

who shall omit, without like reasonable cause, to make such report as by section 13 of this Act he is required to make, or to expose or keep exposed the number of his license, and the number of lodgers he is licensed to accommodate, as hereinbefore is required.

shall be liable to be punished by a fine not exceeding fifty rupees for every such offence.

lodging-house when he shall be thereunto required, or

who shall omit, without like reasonable cause, to make such report as by section 13 of this Act he is required to make, or to expose or keep exposed the number of his license, and the number of lodgers he is licensed to accommodate, as hereinbefore is required,

shall be liable to be punished by a fine not exceeding fifty rupees for every such offence.

18. Whenever the keeper of any lodging-house shall not be actually in charge thereof, then the person who shall be actually in charge thereof shall, as well as the keeper thereof, be liable to the penalties hereby provided for any infraction of the provisions of this Act.

Persons in charge of lodging-houses responsible.

19. All offences against this Act shall be heard and determined according to the provisions of Chapter XV of the Code of Criminal Procedure.²

Determination of offences.

20. It shall be lawful for the Magistrate to revoke or suspend any license granted under this Act to the keeper of any lodging-house who after the grant of such license, shall have been convicted of any offence against the provisions of this Act, or whose house shall have been certified by the Health Officer to have become unfit or unsafe for occupation as a lodging-house.

Power to revoke or suspend licences.

21. It shall be lawful for the Magistrate, when it shall be proved to him that any licensed lodging-house is unfit for the accommodation of the number of lodgers mentioned in the license, to reduce the number of lodgers mentioned in the license thereof to such number as may be able to obtain suitable accommodation in such house, and to enter in the license of such house such diminished number.

Power to reduce number of lodgers for which license is granted.

¹ These words and figures in italics in s. 17 (2) were inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1904 (Ben. Act. 3 of 1904), s. 13 (5) (b), in Vol. III. of this Code.

² Act 25 of 1861 was repealed and re-enacted by Act 10 of 1872 (the Code of Criminal Procedure). Section 2 of, and Sch. V to, the latter Act directed that the reference in the text should be deemed to be made to "Chapter XVI and the provisions applicable to summons cases" in Act 10 of 1872. Act 10 of 1872 was repealed and re-enacted by Act 10 of 1892. This latter Act has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to Chapters XVI, XVII and XX of that Code—see s. 3 (1) thereof, in General Acts, 1898-1908, Ed. 1908, p. 40.

(Secs. 21A-26.)

Power to grant temporary licenses in cases of urgency.

21A. Where, in cases of urgency, the Magistrate is satisfied that sufficient accommodation cannot be provided in the licensed lodging-houses for all the pilgrims visiting the town, he may grant temporary licenses on such terms as he may think fit, and may charge for any such license such fee as he thinks fit, not exceeding the fee payable for a license under section 8.

Fees and fines recoverable under Act to go towards sanitary improvement.

22. All fines and fees under this Act shall be expended in the sanitary improvement of all or any of the towns or places in which this Act may be in force, or in the sanitary improvement of pilgrim halting-places or the roads leading to such towns or places, in such manner as the Lieutenant-Governor of Bengal¹ may from time to time direct.

Applications to be in writing.

23. All applications to the Magistrate or Health Officer under this Act shall be made in writing.

Depositing dirt, etc., in high ways and sewers.

24. Whoever deposits, or permits his servants to deposit, any dust, dirt, dung, ashes or refuse, or filth of any kind, or any animal-matter, or any broken glass or earth-ware or other rubbish, in any public highway, except in such convenient spots, and in such manner, and at such hours as shall be fixed by the Magistrate with the assent of the Health Officer, or

throws or puts, or permits his servants to throw or put, any such substance into any public sewer or drain, or into any drain communicating therewith,

shall be liable to a fine not exceeding ten rupees.

Permitting offensive matter to run into drains or upon high ways.

25. Whoever

causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being on his land, to run, drain or be thrown or put upon any public highway, or

causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface-drain in any such highway,

shall be liable to a fine not exceeding ten rupees.

Notice to cut trees.

26. The Magistrate may give notice to the owner or to the occupier of any land to cut and trim any hedges or

¹ Section 21A was inserted, for Western Bengal, by the Puri Lodging-house (Amendment) Act, 1906 (Ben. Act 3 of 1906), s. 11, in Vol. III of this Code.

² This section was substituted for the original section 22 by the Puri Lodging-house (Extension) Act, 1879 (Ben. Act 2 of 1879), s. 2, *post*, p. 543.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 6, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ Sections 24 to 34 ceased to be in force in every municipality under the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876)—see s. 2 of that Act. Ben. Act 5 of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), but see ss. 2, 3 and 6 of the latter Act; *post*, pp. 710 and 716.

of 1871.]

(Secs. 27-31.)

trees which overhang any public highway so as to obstruct the passage, or to interfere with the free circulation of air.

¹ 27. Whoever, being the occupier of a house in or near any public highway,

Penalty on occupier of house not removing filth.

keeps or allows to be kept for more than twenty-four hours, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter, in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or

suffers such receptacle to be in a filthy or noxious state, or

neglects to employ proper means to cleanse the same,

shall be liable to a fine not exceeding fifty rupees.

¹ 28. Whoever, being the owner or keeper of any cattle, sheep or pigs,

Keeping cattle near highways.

suffers the stall, pen or place in which they are kept, in or near any public highway, to be in a filthy or noxious state, or

neglects to employ proper means to remove the filth therefrom.

shall be liable to a fine not exceeding twenty rupees, and to a fine not exceeding three rupees for every day after conviction for such offence during which the offence is continued.

¹ 29. The Magistrate may license such necessities for public accommodation as he from time to time may think proper; and whoever shall keep any public necessary without such license, or, having a license for a public necessary, shall suffer the same to be in a filthy or noxious state, or shall neglect to employ proper means for cleansing the same, shall be liable to a fine not exceeding fifty rupees, and such license may be withdrawn.

Power to license public necessities.

¹ 30. Whoever, being the owner or occupier of any private drain, privy or cesspool, shall neglect or refuse, after warning from the Health Officer, to keep the same in a proper state, shall be liable to a fine not exceeding fifty rupees.

Clearing drains and cesspools.

¹ 31. It shall be lawful for the Magistrate, with the assent of the Health Officer, to appropriate to the domestic use of the inhabitants of Puri, or of any other towns to which this Act may be extended, any tank not being a private tank;

Power to set apart tanks for domestic use.

and whoever shall bathe in any tank so appropriated to the domestic use of the inhabitants of the place, or

shall wash or cause to be washed therein any animal, or any wool, cloth or wearing-apparel, or any utensils for cooking or

¹ See foot-note 4 on p. 208, ante.

(Secs. 32-35.)

other purposes, or leather or the skin of any animal, or any foul or offensive thing, or

shall put or cause to enter therein any animal, or any gravel, stone, dirt or rubbish, or any dirt, filth or other noxious thing, or

shall cause or suffer to run, drain or be brought thereunto the water of any sink, sewer, drain or any other unwholesome or offensive liquid, or

shall do anything whatsoever whereby the water in any such tank shall be in any degree fouled or corrupted,

shall be liable to a fine not exceeding fifty rupees.

Notice to
drain and
clear vegeta-
tion.

¹ 32. Whenever any lands or premises, being private property or within any private enclosure, appear to the Health Officer to be, by reason of thick or noxious vegetation or want of drainage, in a state injurious to health or offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner or occupier of the premises to clear and remove such vegetation, or drain such premises.

Power to
drain tanks,
etc.

¹ 33. The Magistrate may from time to time, as he may see fit, drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond or other receptacle of water which shall appear to the Health Officer to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be or be not within any private enclosure or be or be not the private property of any person.

Power to
perform
works of
which notice
is given.

¹ 34. In case any person to whom any notice, warning or order under the provisions of section 26, 30 or 32 shall be given shall, without sufficient reason, for eight clear days after service upon him of such notice or order, neglect or refuse to comply therewith, or shall not proceed with due diligence in the completion of the works thereby required,

it shall be lawful for the Magistrate to cause to be performed the works in or by such notice required to be performed, and for that purpose to enter into or upon, and to cause workmen and servants to enter into and upon, lands belonging to, or in the occupation of, such person, and to do all things needful or useful to the performance of such works;

and the Magistrate shall make an order under his hand certifying the expense incurred in or about the performance of such works and ordering the payment of such amount by the owner or by the occupier of the lands on which such works may have been performed;

and such amount may be recovered from the person named therein as if it had been a fine for an offence against any of the provisions of this Act.

Service of
notices.

¹ 35. Every notice, warning, order or summons, under any of the preceeding sections of this Act may be served personally

¹ See foot-note 1 on p. 208, ante.

of 1871.]

(Sec. 36.)

upon the person to whom the same is addressed, or may be served by leaving the same at his usual or last known place of abode with some adult male member or servant of his family, or, if it cannot be so served, may be served by being put up on some conspicuous part of such place of abode.

If such notice, warning, order or summons relates to any house, building or land, and the place of abode of the person whom it is intended to affect by such notice, warning, order or summons is unknown, or is not within the town in which such house, building or land is situate, the same shall be deemed to be duly served if put up in some conspicuous part of the house, building or land to which the same relates.

Indemnity-
clause.

¹36. No action shall be brought against the Magistrate, nor against the Health Officer, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act,

until the expiration of ²*two months* next after notice in writing shall have been delivered or left at the office of the Magistrate or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff;

and, unless such notice be proved, the Court shall find for the defendant;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards;

and, if any person to whom any such notice of action is given shall, before action

Indemnity-
clause.

³36. No action shall be brought against the Magistrate, nor against the Health Officer, nor against any of his or their officers, nor against any person acting under his or their direction, for anything done or professing or purporting to be done under this Act,

until the expiration of *one month* next after notice in writing shall have been delivered or left at the office of the Magistrate or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff;

and, unless such notice be proved, the Court shall find for the defendant;

and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards;

and, if any person to whom any such notice of action is given shall, before action

¹ Section 36 is in force in this form in Western Bengal.

The only difference in s. 36, as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

² These words in italics in s. 36 were substituted, in Western Bengal, for the words "one month" by the Fari Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 15, in Vol. III of this Code.

³ Section 36 is in force in this form in Eastern Bengal.

(Secs. 37-40.)

brought, tender sufficient brought, tender sufficient
amends to the plaintiff, such amends to the plaintiff, such
plaintiff shall not recover. plaintiff shall not recover.

Power to
make by-
laws

37. It shall be lawful for the Magistrate, with the assent of the Health Officer, and the Civil Surgeon of the district if he be not the Health Officer, to make by-laws,¹ and to repeal, alter and amend the same, subject to the confirmation hereinafter mentioned,

for the management of all matters connected with the conservancy of the town of Puri or of any other town to which this Act may be extended, and

for regulating the encampments, lodging and halting places of pilgrims on their journey to or from Puri or such other town as aforesaid, and

for preventing the spread of epidemics amongst such pilgrims while at Puri or such other town as aforesaid, or on the journey thereto or therefrom, and

to affix fines as penalties for the infringement of such by-laws :

Provided that no by-law shall be repugnant to any law in force, and that no fine for any one infringement of a by-law shall exceed twenty rupees, and that in case of a continuing infringement no fine shall exceed five rupees for every day after notice from the Magistrate of such infringement.

By-laws to
be confirmed
by Lieutenant-
Governor.

38. No by-law or alteration of a by-law shall have effect until the same shall have been approved and confirmed by the Lieutenant-Governor of Bengal² and shall have been published for such length of time and in such manner as the Lieutenant-Governor of Bengal² shall order.

39. (*Provision for extending Act to Bhubaneshwar, Jajpore, any towns or villages in Orissa used as pilgrims-stages, or any villages in Orissa on the line of road habitually traversed by pilgrims.* Rep. by The Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

Short title.

40. This Act may be called the Puri Lodging-house Act, 1871.

¹ For a list of by-laws made under s. 37 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code

(Sch. A.)

SCHEDULE A.¹

APPLICATION FOR LICENSE.

I, _____, the owner of house No. _____ in the town of _____, hereby request that a license may be granted to me, under the provisions of Act No. 4 of 1871 of the Council of the Lieutenant-Governor of Bengal for making laws and Regulations, for the reception of lodgers in my said house.

1	2	3	4	5	6	7
Name of the street in which the house is situated, or other complete description of its locality.	Name of owner applying for license.	Whether sole owner of house or not.	Whether applicant has been previously convicted of any offence against the provisions of this Act, or not.	Number of lodgers applicant desires to obtain license for accommodating in his said house.	Number, description and price of furniture which applicant desires to accommodate lodgers.	Number of inmates now residing in applicant's said house.

I, _____, the above-named, do declare that what is stated in the above application for a license is true to the best of my information and belief.

(Signature) _____

¹ Schedule A is referred to in s. 4, *ante*, p. 201. It is in force in Eastern Bengal only, having been repealed in Western Bengal by the Puri Lodging-house (Amendment) Act, 1908 (Ben. 8 Act of 1908), s. 4(2).

(Sch. B.)

SCHEDULE B.¹

LICENSE.

A.B., the owner of house
 No. in the town of Puri,² is hereby
 licensed to receive lodgers in his said
 house in apartments thereof.
 subject to the provisions of Act No. 4 of 1871
 of the Council of the Lieutenant-Governor of
 and for making Laws and Regulations.
 Registered number of this license, upon
 a fee of rupees has been paid is

(Signature)

Magistrate of

District.

¹ Schedule B is referred to in s. 4, *ante*, p. 201. It is in force in Eastern Bengal only, having been repealed in Western Bengal by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 1(2).
² Places in Eastern Bengal to which this Act has been extended under the Lodging-house (Extension) Act, 1879 (Ben. Act 2 of 1879), s. 3, the place concerned is substituted for "Puri" in Sch. B—see Ben. 1879, s. 3, *post*, p. 383.

BENGAL ACT 9 OF 1871

(THE HOWRAH BRIDGE ACT, 1871).

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 2. Power to make bridge.
 3. Power to charge tolls.
 4. Power to levy fees.
Power to re-impose payment of the fees exempted under this section.
 5. Appointment of person to collect tolls and take charge.
 6. Lieutenant-Governor may make by-laws.
 7. Penalty for infringement of by-law.
 8. By laws and tables of tolls to be exhibited.
 9. Power to collect tolls through East Indian Railway Company.
 10. Power to apply public funds in construction of bridge.
 11. Accounts to be kept of bridge.
 12. Power to nominate Commissioners.
 13. Commissioners to have powers and duties of Lieutenant-Governor.
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 15. Repayment of principal sums due.
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 18. Application of surplus income.
 19. Estimate of income and expenditure to be submitted annually to Commissioners.
 20. Revision and passing of estimate.
 21. Estimate to be approved by Lieutenant-Governor.
 22. Tolls to be reduced on accumulation of sufficient reserve fund.
 23. Power to make supplemental estimate.
 24. Approval of by-laws.
 25. Lieutenant-Governor may revoke and annul by-laws.
 26. Certain provisions of Bengal Act 5 of 1870 extended.
 27. Limitation of suits.
 28. No compensation for obstruction.
 29. Penalty on evasion of toll.
 30. Power to arrest.
 31. Summary jurisdiction.
 32. Offender to be forthwith brought to trial.
 33. Short title.
- Schedule.

BENGAL ACT 9 OF 1871

(THE HOWRAH BRIDGE ACT, 1871)¹.

(5th July, 1871.)

**An Act for the construction of a bridge across the river
Hooghly between Howrah and Calcutta.**

Whereas it is expedient that a bridge should be constructed across the river Hooghly between Howrah and Calcutta; It is enacted as follows:—

1. The following words and expressions shall have the meanings hereby assigned to them, unless where a contrary intention shall appear from the context:—

the word "Commissioners" shall mean the Commissioners for making improvements in the port of Calcutta² incorporated by Act 5 of 1870,³ passed by the Lieutenant-Governor of Bengal in Council;

"Magistrate" includes a Justice of the Peace for Calcutta and any person exercising all or any of the powers of a Magistrate.

2. It shall be lawful for the Lieutenant-Governor of Bengal⁴ to cause a bridge to be constructed across the river Hooghly between Calcutta and Howrah, at such place at or near Armenian Ghat as he may select, and also such ways and approaches to such bridge as he shall deem necessary, and to cause to be maintained such bridge and approaches.⁵

3. The said Lieutenant-Governor⁶ shall form a scale of tolls, fees and charges for the use of the said bridge, and may from time to time vary such scale; and such tolls, fees and charges shall be leviable in respect of the several matters mentioned in the Schedule hereto annexed:

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1871, p. 411; and for Proceedings in Council, see *ibid*, Supplement, 1871, pp. 91, 106, 228, 266, 288 and 298.

LOCAL EXTENT.—This Act applies only to the Howrah Bridge and the ways and approaches thereto (see s. 2), and the Howrah Railway Station (see ss. 4 and 9).

AMENDING ACTS.—Ben. Act 3 of 1880 is to be deemed to have always been a part of this Act—see Ben. Act 8 of 1880, s. 1, *post*, p. 459.

Ben. Act 8 of 1888 is to be read with, and taken as part of, this Act—see Ben. Act 8 of 1888, s. 1, *post*, p. 891.

² This body is now styled "the Commissioners for the Port of Calcutta"—see the Calcutta Port Act, 1890 (Ben. Act 8 of 1890), s. 4, *post*, p. 1014.

³ Ben. Act 5 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1890 (Ben. Act 8 of 1890), and this reference should now be construed as a reference to the latter Act—see s. 2 (d) thereof, *post*, p. 1014.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

⁵ For power of Commissioners to own and run steam and other vessels in the service of the bridge, see the Howrah Bridge Act, 1880 (Ben. Act 8 of 1880), s. 2, *post*, p. 459.

(Secs. 4-6.)

¹ Provided always that such tolls, fees and charges shall not exceed the respective rates mentioned in the said Schedule, and that it shall be lawful for the Lieutenant-Governor² from time to time to exempt all or any passengers, animals, vehicles and goods using or conveyed on the said bridge from payment of the tolls, fees and charges prescribed in the said Schedule.

Power to levy fees.

4. Towards meeting the charges incurred in the construction and maintenance of the said bridge and approaches, the Lieutenant-Governor of Bengal² may levy or cause to be levied, from the date of the opening of the said bridge for traffic, the following fees on goods and passengers conveyed on the railway of the East Indian Railway Company into and from the station at Howrah, namely:—

On every maund of goods	...	...	2 pie.
On every passenger	...	...	3 pie.

Power to re-impose payment of the fees exempted under this section.

Provided that the said Lieutenant-Governor² may at any time lower the said fees, and may also exempt any goods or any passengers from payment of the said fees:

³ Provided also that the said Lieutenant-Governor² may, from time to time, re-impose the payment of the fees on any goods or any passengers which may have been exempted from such payment under this section.

Appointment of person to collect tolls and take charge.

5. The said Lieutenant-Governor² may appoint such person or persons as he shall think fit to collect tolls, fees and charges under this Act, and also to take charge of the said bridge and to superintend the traffic thereon.

Lieutenant-Governor may make by-laws.

6. It shall be lawful for the Lieutenant-Governor of Bengal² from time to time to make by-laws⁴

for the guidance of persons employed by him under this Act;

for the safe and convenient use of the bridge to be constructed under the provisions of this Act, and approaches thereto;

for the passage of ships, boats and vessels through the said bridge;

for the mode of payment and levy of the tolls, fees and charges leviable under this Act:

¹ This proviso to s. 3 was substituted for the original proviso by the Howrah Bridge Act Amendment Act, 1888 (Ben. Act 3 of 1888), s. 3, *post*, p. 201. The original proviso ran thus:—

"Provided always that such tolls, fees and charges shall not exceed the respective rates mentioned in the said schedule, and that it shall be lawful for the Lieutenant-Governor to exempt from payment of tolls all or any passengers or goods conveyed on the East Indian Railway, or all or any carriages or persons using the said bridge for the purpose of going to or returning from the station of the said railway at Howrah."

² Now the Governor in Council of Fort William in Bengal, as the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. 3, item 1, in Vol. I of this Code.

³ This proviso was added to s. 4 by the Howrah Bridge Act Amendment Act, 1888 (Ben. Act 3 of 1888), s. 4, *post*, p. 201.

⁴ For a list of by-laws made under section 6, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, p. 71.

[1874.]

(Secs. 7-11.)

or otherwise for carrying out the purposes of this Act; and from time to time to vary, alter or revoke any such by-law so made by him.

7. No penalty for any one infringement of a by-law shall exceed one hundred rupees, nor in case of a continuing infringement shall any penalty exceed fifty rupees *per diem* for every day after notice of such infringement shall have been given by or on behalf of the said Lieutenant-Governor¹ to the person guilty of such infringement.

Penalty for
infringement
of by-law.

8. The Lieutenant-Governor of Bengal¹ shall cause the said by-laws, and the tables of tolls, fees and charges leviable, to be printed in the English, Hindustani, Hindi and Bengali languages and characters, and to be hung up and kept hung up at the approaches to the said bridge.

By-laws and
tables of tolls
to be
exhibited.

9. It shall be lawful for the East Indian Railway Company and the said Lieutenant-Governor¹ to make such arrangement or agreement for the collection of tolls, fees and charges by the said Company in respect of persons, animals, carriages and goods crossing the said bridge to or from the station of the said Company at Howrah, or conveyed into or from the said station, as to the said Company and the said Lieutenant-Governor¹ shall seem fit, and upon such agreement being made the said Company shall levy the said tolls, fees and charges.

Power to
collect tolls
through East
Indian
Railway
Company.

10. It shall be lawful for the said Lieutenant-Governor¹ to advance for the construction of the said bridge and approaches thereto such sums out of the public funds as from time to time may be in that behalf sanctioned by the Governor General of India in Council.

Power to
apply public
funds to
construction
of bridge.

Interest at the rate of four and-a-half *per centum per annum* shall be charged on such sums respectively on the thirty-first day of March and on the thirtieth day of September in each year from the respective dates upon which such sums shall have been advanced up to the date of the opening of the said bridge for traffic; and all sums so charged for interest as aforesaid shall be deemed to be sums advanced within the meaning of this section.

11. The said Lieutenant-Governor¹ shall cause such accounts as he shall think fit to be kept of all expenditure in or about the construction or maintenance of the said bridge and approaches, and the collection of such tolls, fees or charges, or otherwise in relation to the said bridge, and the payment of interest which may from time to time be payable to the Secretary of State for India in Council, and also of the income derived from such tolls, fees and charges, and shall from time to time apply the balance which shall remain of such income, after defraying thereout the current expenses incurred in relation to such bridge, and interest as aforesaid.

Accounts to
be kept of
bridge.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal-Bihar and Oude and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 12-15.)

Power to
nominate
Commission-
ers.Commission-
ers to have
powers and
duties of
Lieutenant-
Governor.Property to
vest in Com-
missioners.Property of
Commis-
sioners to be
applied for
purposes of
Act.Repayment of
principal
sum due.

in repaying to the Secretary of State for India in Council all sums which shall have been advanced from the public funds for the construction of the said bridge and approaches.

12. It shall be lawful for the said Lieutenant-Governor of Bengal¹ at any time after the commencement of this Act, if he think fit, with the assent of the Commissioners at a meeting, by order² published in the Calcutta Gazette, to appoint the said Commissioners to carry out the purposes of this Act.

13. When and so soon as the Commissioners shall be so appointed, the Commissioners, subject however to the provisions hereinafter in that behalf contained, shall and may have and exercise³ all the powers and authorities, and shall perform all the duties, in and by sections 5 to 8 (both inclusive) of this Act or any of them, or in and by section 10, conferred or imposed on the said Lieutenant-Governor.¹

And all property procured for the construction of the said bridge and the approaches thereof, and the said bridge and approaches, and the tolls, fees and charges thereof, and the right to enforce all contracts respecting the same, shall become vested in the Commissioners.

14. All property vested in, or acquired by, the Commissioners under or by virtue of this Act, and all moneys payable to them under or by virtue of this Act, shall be held in trust for the payment of all sums which from time to time shall be payable to the Secretary of State for India in Council for moneys advanced or applied, or to be advanced or applied by or on behalf of the said Secretary of State for India in Council for the construction of a bridge across the river Hooghly between Howrah and Calcutta, or otherwise under the provisions of this Act, and subject thereto upon trust for the purposes of this Act and not otherwise.

And nothing in this Act contained shall be construed so as to render the said Commissioners liable to make good any moneys payable by them under the provisions of this Act, or otherwise in relation to the said bridge, except out of property and moneys held by them in trust as aforesaid.

15. The aggregate sum which may under the provisions of section 10 of this Act become payable from the Commissioners to the said Secretary of State shall be by them repaid to him in thirty equal annual instalments, the first of such instalments to be paid on the first day of April which shall be next after the completion of twelve calendar months from the date of the opening of the said bridge for traffic, and the other instalments to be paid respectively on the first day of April

¹ Now the Governor in Council of Fort William in Bengal—the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 4, and Sch. D, Item 1, in Vol. I of this Code.

² For an order made under section 12, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ For a list of by-laws made by the Commissioners, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1871.]

(Secs. 16-19.)

in every year, computing from the day fixed for the payment of the first of such instalments.

16. Interest at the rate of four and-a-half *per centum per annum* shall be paid by the Commissioners to the said Secretary of State upon the aggregate amount which for the time being may be payable to him from them upon the thirty-first day of March and the thirtieth day of September in each year, the first of such payments of interest to be calculated from the date of the opening of the said bridge for traffic and to be made on the thirty-first day of March or the thirtieth day of September, whichever may first happen next after the opening of the said bridge for traffic.

Payment of
interest.

17. Notwithstanding the provisions of section 14, it shall be lawful for the Commissioners, if they think fit, out of any moneys which may come to their hands under the provisions of this Act, to repay to the said Secretary of State in Council any sum or part thereof which for the time being may remain payable to him under the provisions of this Act for principal, although the time fixed by the said section for the repayment of the same shall not have arrived :

Power to
repay before
due date.

Provided always that no such repayment shall be made of any sum less than five thousand rupees, nor of any sum not being a multiple of five thousand rupees, and from and after any such repayment no further sum as interest shall be payable to the said Secretary of State in Council in respect of the sum which shall have been so repaid.

18. Whenever the half-yearly accounts to be laid before the Lieutenant-Governor of Bengal¹ under the provisions of this Act shall show a surplus of income over expenditure, such surplus or so much thereof as the said Commissioners shall think fit may be invested by the Commissioners in the purchase in their corporate name of Government securities, and the interest thereof may be accumulated and invested in like manner, with power to the Commissioners at any time to dispose of any such securities, and to apply the proceeds and interest thereof, with the sanction of the Lieutenant-Governor,¹ in or towards any of the purposes of this Act.

Application
of surplus
income.

The said Government securities shall be held by the said Commissioners in trust for the purposes of this Act and not otherwise.

19. The salaried Chairman or salaried Vice-Chairman of the Commissioners shall at a meeting, to be held within two months after the Commissioners shall have been appointed, lay before the Commissioners a separate estimate of the expenditure and income under this Act of the Commissioners for the period which shall be to come from the date of their appointment up to the first day of April then next ensuing;

Estimate of
income and
expenditure to
be submitted
annually to
Commissioners.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 20-23.)

and shall also at a meeting, to be held in the month of February in each year, lay before the Commissioners a like estimate of such income and expenditure for the year commencing on the first day of April then next ensuing.

Every such estimate shall be in such form as the Lieutenant-Governor of Bengal¹ shall, by an order published in the Calcutta Gazette, direct:

Provided always that such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner, at least ten clear days prior to the meeting before which the estimate is to be laid.

20. It shall be in the discretion of the Commissioners at such meeting by resolution to pass or to reject, or to modify or alter, such estimate, and pass such estimate so modified or altered.

21. Every such estimate, when passed by the Commissioners in pursuance of the provisions of this Act, shall be submitted to the Lieutenant-Governor of Bengal,¹ and it shall be lawful for such Lieutenant-Governor¹ either to approve of such estimate or to return the same with his remarks thereupon, and the Commissioners shall forthwith at a meeting proceed to re-consider such estimate in reference to such remarks, and to modify or alter the same, and to re-submit such estimates to the said Lieutenant-Governor,¹ and it shall not be lawful for the Commissioners to expend any greater sum under such estimate than shall be approved by the said Lieutenant-Governor.¹

22. After the repayment of all sums advanced under the provisions of section 10 of this Act, whenever an estimate is submitted or re-submitted pursuant to the next preceding section, if the Government securities then held by the Commissioners shall have been declared by them at a meeting, and shall be considered by the Lieutenant-Governor¹ to form a sufficient reserve fund for the purposes of this Act, then the said Lieutenant-Governor¹ shall so regulate the scale of fees, tolls and charges in relation to the said bridge as that the probable income derivable therefrom shall be no more than sufficient to defray the expenditure set forth in the said estimate.

23. It shall be lawful for the Commissioners, in the course of any year for which an estimate shall have been approved by the Lieutenant-Governor,¹ to cause a supplemental estimate for the residue of such year to be prepared and laid before the Commissioners at a meeting, and thereupon such proceedings shall be had as in and by sections 19, 20 and 21 are directed to be had with respect to the estimate therein mentioned.

Revision and passing of estimate.

Estimate to be approved by Lieutenant-Governor.

Tolls to be reduced on accumulation of sufficient reserve fund.

Power to make supplemental estimate.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

of 1911.]

(Secs. 24-30.)

24. No by-law or alteration or revocation of a by-law made by the Commissioners shall have effect until the same shall have been approved by the Lieutenant-Governor of Bengal¹ by an order² published in the Calcutta Gazette, and no by-law made by the Commissioners shall be approved by the said Lieutenant-Governor until it shall have been published for three weeks successively in the Calcutta Gazette; and, when such by-law shall have been so approved, all Courts of Law shall take judicial notice thereof.

Approval of
by-law.

25. It shall be lawful for the Lieutenant-Governor of Bengal¹ by an order published in the Calcutta Gazette, to revoke, annul and make void any by-law made by the Commissioners.

Lieutenant-
Governor may
revoke and
annul by-
laws.

26. When and so soon as the Commissioners shall be so appointed as aforesaid, all the provisions contained in sections 17, 18, 19, 21, 24, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 52, 53, 76, 79, 80, 88, 89, 90 and 91 of the said Act 5 of 1870³ passed by the Lieutenant-Governor of Bengal in Council, shall apply to this Act as if the said sections were re-enacted herein; and this Act and the said sections of the said Act shall, for the purpose of the construction of this Act, be read and construed together.

Certain
provisions of
Bengal Act
5 of 1870
extended.

27. No suit or other proceeding shall be commenced or prosecuted against any person for anything done or professing or purporting to be done in pursuance of this Act without giving to such person a month's previous notice of the intended proceeding and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of suit or other proceeding.

Limitation of
suits.

28. No person shall be entitled to any compensation for any loss or injury which he may sustain by reason of any obstruction to the navigation of the said river which may be caused by the said bridge, or by anything done in the construction thereof.

No compen-
sation for
obstruction.

29. Any person who shall wilfully evade, or attempt to evade, payment of any toll, fee or charge payable under this Act, shall be liable to a fine which may extend to fifty rupees, or to imprisonment, simple or rigorous, which may extend to fourteen days, or to both.

Penalty on
evasion of
toll.

30. Any person committing any offence against the provisions of the last section may be arrested by any officer to be by the Lieutenant-Governor,¹ the Commissioners or the said Railway Company thereunto appointed, and by such officer or any person by him thereunto authorized, or by any

Power to
arrest.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

² For a list of orders made under this section, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Ben. Act 5 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1900 (Ben. Act 3 of 1900), and these references should now be construed as references to the corresponding portions of the latter Act—see s. 2 (d) thereof, *post*, p. 1014.

(Secs. 31-33.—Schedule.)

officer of police, and forthwith conveyed before some Magistrate having jurisdiction in the place in which such offence shall have been committed, or to the nearest police-station within the said jurisdiction.

Summary
jurisdiction.

31. Whenever such person shall be brought before a Magistrate, such Magistrate may forthwith hear and determine the charge of such offence.

Offender to be
forth with
brought to
trial.

32. Whenever such person shall be taken to a police-station, the officer in charge of such station shall, as soon as conveniently may be, cause him to be conveyed before some Magistrate having jurisdiction in the matter.

Short title.

33. This Act may be called the Howrah Bridge Act, 1871.

SCHEDULE.

(Referred to in section 3.)

MAXIMUM AMOUNT OF TOLLS, FEES AND CHARGES.

	Rs.	A.	P.
For every foot-passenger with or without load	0	0	3
For every horse	0	1	0
For every pony, mule or ass	0	0	6
For every buffalo	0	1	0
For every cow, ox or bull	0	0	6
For every calf, sheep, goat or pig	0	0	3
Or per score	0	3	0
For every two-wheeled vehicle without springs	0	1	0
For every two-wheeled vehicle carrying goods or animals or passengers	0	3	0
For every two-wheeled vehicle with springs	0	2	0
For every four-wheeled vehicle without springs	0	2	0
For every four-wheeled vehicle carrying goods or animals or passengers	0	4	0
For every four-wheeled vehicle with springs other than a second or third class hackney- carriage	0	4	0
For every maund of goods conveyed over the bridge on a tramway or railway	0	0	4
For every empty truck using a tramway or railway	0	4	0
For every locomotive steam-engine	1	0	0

of 1871.]

(Schedule.)

SCHEDULE—*concl.*

	RS.	A.	P.
Animals drawing any of the above vehicles to be charged in addition to the charge on the vehicle.			
For every second class hackney-carriage ...	0	1	0
Ditto ditto carrying goods or passen- gers ...	0	3	0
For every third class hackney-carriage ...	0	1	0
Ditto ditto carrying-goods or passen- gers ...	0	2	0
For every <i>palanquin</i> and bearers ...	0	2	0

BENGAL ACT 1 OF 1873

(THE BENGAL SALT ACT, 1873).¹

(12th March, 1873.)

An Act to amend the Salt Act, 1864.²

Whereas by the Salt Act, 1864, being Bengal Act 7 of 1864,³ section 3, it is enacted that the word "Magistrate" means any person exercising the full powers of a Magistrate under the Code of Criminal Procedure, Act 25 of 1861; and whereas the said Act 25 of 1861 has been repealed by the Code of Criminal Procedure, Act 10 of 1872,⁴ by which later enactment new rules have been enacted, assigning the several powers of Magistrate of the first, second and third classes;

And whereas reference is made in the Salt Act, 1864,² to Act 13 of 1856 (*for regulating the Police of the Town of Calcutta, etc.*) and Act 48 of 1860 (*to amend Act 13 of 1856*), which enactments have been repealed, so far as they relate to the town of Calcutta, by the Calcutta Police Act, 1866, being Bengal Act 4 of 1866;

It is hereby enacted as follows:—

- | | | |
|---|--|---|
| <p>Ben. Act 7 of 1864.</p> <p>10 of 1872.</p> <p>Ben. Act 7 of 1864.</p> <p>Ben. Act 4 of 1866.</p> | <p>1. All the powers which, under the provisions of the Salt Act, 1864,² may be exercised by a Magistrate, may be exercised by a Magistrate of the first or second class, subject to the provisions of section 20 of the Code of Criminal Procedure.⁴</p> <p>2. All offences punishable under the provisions of the Salt Act, 1864² may be inquired into and tried by a Magistrate of the first or second class.</p> <p>3. All references made to the said Act 13 of 1856 and the said Act 48 of 1860, in the Salt Act, 1864,² shall be taken to be made to the Calcutta Police Act, 1866.⁵</p> | <p>Preamble.</p> <p>Powers of Magistrate under Salt Act, 1864.</p> <p>Trial of offences under said Act.</p> <p>References in said Act to Calcutta Police Act.</p> |
|---|--|---|

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Proceedings in Council, see Calcutta Gazette, Supplement, 1873, pp. 68, 114, 196 and 239.

LOCAL EXTENT.—Since this Act merely amends the Salt Act, 1864 (Ben. Act 7 of 1864), it must be taken to have been passed, like the latter Act, for the whole of the former Province of Bengal.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² Printed *ante*, p. 29.

³ Act 10 of 1872 was repealed and re-enacted by the Code of Criminal Procedure, 1892 (10 of 1892), which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (6 of 1898), printed in General Acts, 1898-1903, Ed. 1908, p. 38.

⁴ Act 10 of 1872 was repealed and re-enacted by the Code of Criminal Procedure, 1892 (10 of 1892). The latter Act has again been repealed and re-enacted by the Code of Criminal Procedure, 1898 (6 of 1898), and the reference in the text should now be taken to be made to the corresponding provisions of the latter Act—see s. 3 (1) thereof, in General Acts, 1898-1903, Ed. 1909, p. 40.

⁵ *Pris*

BENGAL ACT 4 OF 1873

THE BENGAL BIRTHS AND DEATHS REGISTRATION ACT, 1873).

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BENGAL ACT 4 OF 1873

(THE BENGAL BIRTHS AND DEATHS REGISTRATION ACT, 1873.)

(2nd July, 1873.)

An Act for Registering Births and Deaths.

Whereas it is expedient to provide the means for a complete register of births and deaths: It is hereby enacted as follows:—

Preamble.

1. The Lieutenant-Governor² may at any time, by a notification³ published in the Calcutta Gazette, direct that all births and deaths, or all births, or all deaths, occurring within the limits of any area after a certain date to be named in such notification shall be registered, and for that purpose may define the limits of such area.

Power to direct registration of births and deaths and define area.

From and after such date this Act shall apply to the whole of the area so defined.

2. The Magistrate of the district⁴ may, for the purpose of such registration, divide any such area into such and so many districts as he may think fit, and may appoint one or more persons to be registrars of births or of deaths, or of births and deaths, within such district, and may at any time for sufficient reason dismiss any such registrar, and may fill up any vacancy in the office of registrar.

Magistrate may divide area into districts, and may appoint registrars.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (3 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPER.—For Statement of Objects and Reasons, see Calcutta Gazette, 1873, Pt. IV, p. 370; and for Proceedings in Council, see *ibid*, Supplement, 1873, pp. 538, 562, and 691.

LOCAL EXTENT.—Since this Act contains no local extent clause, it must be taken to have been intended to extend to the whole of the former Province of Bengal; but it applies only to areas specially notified under s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts regulation, 1900 (1 of 1900), s. 1 (2), printed in Vol. I of this Code.

OTHER ENACTMENTS.—As to the Registration of births and deaths, under the present Act, in Provincial Municipalities, see the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), Pt. XI, post p. 844.

As to the registration of births and deaths in the Calcutta Municipality, see the Calcutta Municipal Act, 1898, Ch. XXXVIII, in Vol. III of this Code.

As to the registration of births and deaths under the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885), see ss. 72 and 114 of that Act, post, pp. 988 and 963.

As to reports by village *chaudidars* of births and deaths, see the Village Chaudidari Act, 1870 (Ben. Act 6 of 1870), s. 39, cl. 7th, ante, p. 188.

For power to make rules as to the registration of births and deaths in Cantonments, see the Cantonments Act, 1910 (16 of 1910), s. 24 (26).

As to the voluntary registration of births and deaths, see the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886) in General Acts, 1879-86, Ed. 1909, p. 666.

As to the transmission to the Registrar-General of Births and Deaths in England of registers of documents showing, births and deaths of officers and soldiers and their families abroad, see the Registration of Births, Deaths and Marriages (Army) Act, 1879 (42 & 43 Vict., c. 8), in the collection of Statutes relating to India, Vol. I Ed. 1913, p. 580.

As to the duties of Registrars of Births in connection with the vaccination of children, see the Bengal Vaccination Act, 1880 (Ben. Act 3 of 1880), ss. 19 to 24, post, pp. 476 and 476.

As to the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and some Laws A.S., 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

For a list of notifications issued under section 1 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

For District Magistrate—see the Code of Criminal Procedure, 1908 (3 of 1908), s. 3 (2), in General Acts, 1879-1906, Ed. 1909, p. 40.

(Secs. 3-7.)

Magistrate
to publish list
of registrars.

The Magistrate shall cause to be published a list containing the name and place of office of every registrar in the area, and specifying the hours of the day during which such registrar shall attend at his office for the purpose of registration.

Every
registrar to
have an office
within his
district.

3. Every registrar shall have an office within the district of which he is appointed registrar, and shall cause his name, with the addition of registrar (or of deaths, or of births and deaths according to his appointment) for the district for which he is so appointed, and notice of the hours during which he will attend for the purpose of registration, to be affixed in some conspicuous place on or near the outer door of his office.

Commis-
sioners to
have register-
books
prepared and
numbered

4. The Magistrate shall cause to be prepared a sufficient number of register-books for making entries of all births or deaths or both, according to such forms as the Lieutenant-Governor¹ may from time to time sanction; and the pages of such books shall be numbered progressively from the beginning to the end; and every place of entry shall be also numbered progressively from the beginning to the end of the book, and every entry shall be divided from the following entry by a line.

Registrar to
inform
himself of,
and register,
births and
deaths.

5. Every registrar shall inform himself carefully of every birth, or of every death, or of both, according to his appointment, which shall happen in his district, and shall register, as soon as conveniently may be after the event, without fee or reward, the particulars required to be registered, according to the forms mentioned in the last preceding section, touching every such birth or every such death, as the case may be which shall not have been already registered.

Chaukidar
to obtain
particulars
and to report
to registrar.

6. Every *chaukidar* or other village-watchman in any area to which this Act shall apply, or, where there is no *chaukidar* or other village-watchman, such person as the Magistrate may appoint, shall be required to report every birth or death occurring within his beat to such registrar and at such periods as the Magistrate may direct.

He shall obtain in writing, if possible, and if it is impossible for him to obtain in writing he shall obtain verbally, from any person who is bound to give information of the birth or death all particulars which are required to be known and registered, and he shall report such particulars to the registrar.

Penalty for
neglect.

Any *chaukidar* or other village-watchman or other person so appointed who wilfully or negligently refuses or omits to produce such writing, if any, or to report such birth or death, shall be punishable at the discretion of the Magistrate with fine which may extend to two rupees.

Persons bound
to give
information
of birth.

7. The father or mother of every child born within such area, or in case of the death, illness, absence or inability of the father and mother, the midwife assisting at the birth of such

¹Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar, and Orissa and Assam Laws Act, 1913 (7 of 1913), s. 6, and Sch. D, Items 1 and 2, in Vol. I of this Code.

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(Secs. 8-10.)

child, shall, within eight days next after the day of every such birth, give information, either personally or in writing, to the registrar of the district, or by means of the *chaukidar* or other village-watchman or other person as provided in the last preceding section, according to the best of his or her knowledge and belief, of the several particulars hereby required to be known and registered touching the birth of such child.

Any person who refuses or neglects to give any information which it is his duty to give under this section, shall be punishable at the discretion of the Magistrate with fine which may extend to five rupees :

Penalty for neglect.

Provided that not more than one person shall be punishable at the discretion of the Magistrate for such refusal or neglect to give information.

8. The nearest male relative of the deceased present at the death, or in attendance during the last illness of any person dying, within such area, or, in the absence of any such relative, the occupier of the house, or, if the occupier be the person who shall have died, some male inmate of the house in which such death shall have happened, shall, within eight days next after the day of such death, give information either personally or in writing to the registrar of the district,¹ or by means of the *chaukidar* or other village-watchman or other person as provided in section 6, according to the best of his knowledge and belief, of the several particulars hereby required to be known and registered touching the death of such person :

Persons bound to give information of death.

Provided that no person shall be bound to give the name of any female relative.

Any person who refuses or neglects to give any information, which it is his duty to give under this section, shall be punishable at the discretion of the Magistrate with fine which may extend to five rupees :

Penalty for neglect.

Provided that not more than one person shall be punishable for such refusal or neglect to give information.

9. Any registrar who refuses or neglects to register any birth or death occurring within his district, which he is bound to register, within a reasonable time after he shall have been duly informed thereof, or demands or accepts any fee or reward or other gratification as a consideration for making such registry, shall be punishable at the discretion of the Magistrate with fine which may extend to fifty rupees for each such refusal or neglect.

Penalty for registrar refusing to register.

10. Whoever wilfully makes or causes to be made, for the purpose of being inserted in any register of births or deaths, any false statement touching any of the particulars required

Penalty for wilfully giving false information.

¹ Or any sub-registrar appointed for a burning-ghat or burial ground—see the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), s. 848, post, p. 848.

As to duty of medical officer in charge of hospital to give notice of death, see ib., s. 849, post, p. 849.

² Or any sub-registrar appointed for a burning-ghat or burial ground—see the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), s. 848, post, p. 848.

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[Ben. Act 4 of 1873.]

(Secs. 11, 12.)

to be known and registered, shall be punishable at the discretion of the Magistrate with a fine not exceeding fifty rupees.

Municipality
under Ben.
Act 3 of 1864
may arrange
for keeping
register of
births or
deaths or
both.

11. In any place to which the District Municipal Improvement Act¹ shall have been extended, the Municipal Commissioners may, if at a meeting specially convened for considering such question they shall so determine arrange for keeping a register of all births or of all deaths or of all births and deaths, occurring within the municipality.

Ben. Act 3
of 1864

On and after a date to be fixed at such meeting, the Commissioners shall in such case be authorized to provide out of the municipal fund for the employment of a sufficient number of registrars, and for the expenditure necessary for the maintenance of such registers, and shall exercise all the powers of a Magistrate under this Act; and all the provisions of this Act shall be deemed to apply to such place.

Magistrate
may depute
subordinate
Magistrate to
discharge his
functions.

12. The Magistrate of a district² may depute any subordinate Magistrate to exercise the powers and to perform the duties vested in the Magistrate by this Act within such district or any part thereof.

¹ Ben. Act 3 of 1864 was repealed by Ben. Act 5 of 1876, which again has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), and this reference should now be taken to be made to the latter Act—see s. 2 thereof, *post*, p. 710.

² Now District Magistrate—see the Code of Criminal Procedure, 1898 (5 of 1898), s. 3 (2) in General Acts, 1898-1908, Ed. 1909, p. 40.

BENGAL ACT 6 OF 1873

(THE BENGAL EMBANKMENT ACT, 1873).¹

[Sections 12, 13, 21 (proviso) and 26 to 29, and Schedules B to E.]

(24th December, 1873.)

12. Whenever any land, or earth from any land, the property of any person, is required for the purposes of any works commenced in pursuance of the provisions of [the last preceding section]², or for the purposes of [section 18]³ in cases where the Collector shall be of opinion that proceedings for the acquisition of such land according to the provisions hereinafter contained in [section 25]⁴ would cause delay as aforesaid, the Collector shall cause a proclamation to be issued in form in Schedule B annexed to this Act, giving notice thereof at convenient places in the locality in which such land is situated, and he may at the same time take possession of the same for the said purposes.

Power to take possession of land.

13. The Collector shall ascertain and record the nature and estimated value of the crops and trees (if any) standing on such land, and shall offer adequate compensation to the person interested.

Compensation for standing crops and trees.

If such offer is not accepted, the value of such crops and trees shall be allowed for in awarding compensation for the land under the provisions of section 29.

21 (proviso). Provided always that, in case the Collector be of opinion that the delay required by [such proceedings]⁵ is likely to be attended with grave and imminent danger to life or property, it shall be lawful for him forthwith to cause such trees, houses, huts or buildings to be removed, and in such case

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1871, p. 78; for Report of Select Committee, see *ibid.*, 1873, Pt. IV, p. 257; and for Proceedings in Council, see *ibid.*, 1870, Supplement, pp. 790, 829 and 886; *ibid.*, 1871, Supplement, pp. 25, 265, 555 and 797; *ibid.*, 1878, Supplement, pp. 68, 113, 197, 248, 375, 382, 582, 1265, 1500 and 1688.

LOCAL EXTENT.—This Act was declared by section 1 to extend to the whole of the former Province of Bengal except Orissa and the Sunderbans.

The whole of the Act, except sections 12, 13, 21 (proviso) and 26 to 29 and Schedules B to E, has since been repealed by the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), post, p. 685.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

The sections here printed are in force in the whole of the present Presidency of Fort William in Bengal, except the Sunderbans and the Chittagong Hill-tracts.

RESTRICTION ON APPLICATION.—Nothing in this Act applies to any canal or flood-embankment as defined in the Bengal Irrigation Act, 1876 (Ben. Act 3 of 1876)—see Ben. Act 3 of 1876, s. 4, post, p. 815.

² This reference is now to be read as a reference to section 25 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see that Act, s. 2 and Sch. II, post, pp. 685 and 692.

³ This reference is now to be read as a reference to section 30 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see *ibid.*

⁴ This reference is now to be read as a reference to section 37 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see *ibid.*

⁵ This reference to "such proceedings" is now to be read as a reference to section 19 of the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882)—see that Act, s. 2 and Sch. II, post, pp. 685 and 692.

(Secs. 26-29.—Schedule B.)

the compensation due therefor shall be ascertained and paid in the manner hereinafter provided.

When land taken, proclamation to be published.

26. Whenever any land shall have been taken or used under the provisions of [Part III]¹ the Collector shall cause a proclamation² to be issued in form in Schedule C annexed to this Act at convenient places on or near the land so taken, stating that Government has taken possession of the land, and that claims to compensation for all interests in such land shall be made to him.

Thereupon the land shall vest absolutely in the Government free from all incumbrances, subject, however, to the claims for compensation to be ascertained in manner as in [this Part]³ is provided.

Contents of proclamation.

27. Such proclamation shall state the particulars of the land so taken, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than 15 days after the date of issuing the proclamation), and to state the nature of their respective interests in the land, and the amount and particulars of their claims to compensation for such interest.

Further notice to be served on certain parties.

28. The Collector shall also serve notice⁴ to the same effect on the occupier (if any) of such land, and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue-district in which the land is situate.

Proceedings after notice.

29. After service of such notice proceedings shall be had and taken to determine the amount of compensation to be payable in respect of such land, in accordance with the provisions of the Land Acquisition Act, 10 of 1870, or any other law⁵ for the time being in force for the acquisition of land for public purposes.

SCHEDULE B.

(Referred to in section 12.)

Notice is hereby given that, under the provisions of section 11⁶ of the Bengal Embankment Act, 1873, the land hereunder

¹ This reference is now to be read as a reference to Part III of the Bengal Embankment Act, 1893 (Ben. Act 2 of 1893)—see that Act, s. 2 and Sch. II, post, pp. 685 and 662.

² As to the mode of publishing proclamations mentioned in s. 26, and serving notices mentioned in s. 28, see ss. 2, 80 and 81 of the Bengal Embankment Act, 1892 (Ben. Act 2 of 1892), post, pp. 635, 658 and 659.

³ This reference is now to be read as a reference to Part V of the Bengal Embankment Act, 1893 (Ben. Act 2 of 1893)—see that Act, s. 2 and Sch. II, post, pp. 635 and 662.

⁴ See now the Land Acquisition Act, 1894 (1 of 1894—printed in General Acts, 1897-97, Ed. 1909, p. 563), which repeals and re-enacts Act 10 of 1870.

⁵ Section 11 of this Act was repealed by the Bengal Embankment Act, 1903 (Ben. Act 2 of 1903), s. 2, printed post, p. 635.

of 1873.]

(Schedule C.)

specified has been taken up, and notice thereof has been given to the Collector of

1	2	3
Pargana in which land is situated.	Name of village in which land is situated.	Approximate boundaries and area of land.

The day of

A. B.,

Collector of

SCHEDULE C.

(Referred to in section 26.)

All persons interested are required to take notice that under the provisions of section 11¹ of the Bengal Embankment Act, 1873, the Collector of has taken possession on account of the Government of (*here state particulars of the land taken*), and that claims to compensation for all interests in such land must be made to the Collector. All persons having any such claims are therefore required to appear personally or by agent on day of at , and to state the nature of their respective interests in such land and the amount and particulars of their claims to compensation for such interests.

The day of

A. B.,

Collector of

¹ Section 11 of this Act was repealed by the Bengal Embankment Act, 1892 (Ben. Act. 2 of 1892), s. 2, printed post, p. 686.

(Schedule D.)

SCHEDULE D.

(Referred to in sections 34, 35 and 40.)¹

No. 1.

*Right Embankment on the Shildai River from Ishnagar to Kola.**(Excluded by Notification No. 338, dated the 19th December, 1893, published in Calcutta Gazette, 1893, Pt. I, p. 1072.)*

No. 2.

*Right Embankment on the Shildai River from Chota Ráprám to Naruyá.**(Excluded by Notification No. 338, dated the 19th December 1893, published in Calcutta Gazette, 1893, Pt. I, p. 1072.)*

No. 3.

Right Embankment on the Shildai River from Srirámpur to Gánchiá.

This is a continuous line of embankment on the right bank of the Shildai river, 7 miles 2,686 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Srirámpur of *pargana* Chandrakoná, and terminates at a masonry-pillar in the village of Gánchiá in the said *pargana*.

No. 4.

*Left Embankment of the Shildai River from Karshi to Kalúkadi.**(Excluded by Notification No. 338, dated the 19th December, 1893, published in Calcutta Gazette, 1893, Pt. I, p. 1072.)*

¹ Sections 34, 35 and 40 of this Act were repealed by the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), s. 2, post, p. 685.

Section 4 (post, p. 687) of the Bengal Embankment Act, 1882, declares that the embankments mentioned in this Schedule shall be held on behalf of the Government.

Section 48 (post, p. 647) of the Bengal Embankment Act, 1882, authorises the inclusion of other embankments or water-courses in the Schedule and the exclusion of embankments or water-courses therefrom. The Schedule has been amended in accordance with the several notifications and orders which have been issued under these powers up to the 8th July, 1914, for Western Bengal, and up to the 4th May, 1907, for Eastern Bengal.

Section 48 (post, p. 647) of the Bengal Embankment Act, 1882, declares that sections 47, et. seq. of Part VI of that Act shall not apply to any embankments for the time being included in this Schedule, except in certain cases, and also declares that all sums payable in respect of works or repairs executed in or in relation to such embankments shall, with certain exceptions, be paid by the Government.

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No. 5.

Left Embankment of the Shildai River from Bāghpotā to Rādhāchak.

This is a continuous line of embankment on the left bank of the Shildai river, 20 miles 680 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bāghpotā of *pargana* Chandkrakonā, and terminates at a masonry-pillar in the village of Rādhāchak of *pargana* Baradā.

No. 6.

Left Embankment of the Dwārakeshwar and Sānkrā Rivers.

This is a continuous line of embankment on the left bank of the Dwārakeshwar and Sānkrā rivers, 5 miles 250 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Rāmnagar of *pargana* Baydā, and terminates at a masonry-pillar in the village of Gāsnā of *pargana* Jahānabad.

No. 7.

Right Embankment of the Dwārakeshwar and Jhumi Rivers.

This is a continuous line of embankment on the right bank of the Dwārakeshwar and Jhumi rivers, 6 miles 3,200 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Digdi of *pargana* Baydā, and terminates at a masonry-pillar in the village of Soi of *pargana* Baradā.

No. 8.

Left Embankment on the Bakshi Kha..

This is a continuous line of embankment on the left bank of the Bakshi *khal*, 6 miles 4,330 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Bakshi of *pargana* Khariji Māndalgāt, and near

(Schedule D.)

the junction of the Rupnarain river and Bakshi *khal*, and terminates at a masonry-pillar in the village of Gáigháti in the said *pargana* where the Gáigháti *khal* leaves the Damodar.

No. 9.

Right Embankment on the Rupnarain River.

This is a continuous line of embankment on the right bank of the river Rupnarain, 29 miles 2,373 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground, distant 57 feet south-east by compass from the Máchnán masonry-sluice on the right bank of the Durbachati *khal*, in the village of Máchnán of *pargana* Mandalghát, and terminates at a masonry-pillar at the zero mile-post on the bank of the Tidal Canal, Reach I. This mile-post bears 500 feet south-west by compass from the Canal toll-house, in the village of Kámálpur of *pargana* Mahishádal.

(The following Notification has been published with respect to this embankment :—

Notification No. 224, dated the 11th November, 1902, published in the Calcutta Gazette, 1902, Pt. I, p. 1488.

In modification of the description of the right embankment on the Rupnarain river, being No. 9 in Schedule D of Act VI (B. C.) of 1873, the following is published for general information :—

No. 9.

Right Embankment on the Rupnarain River.

This is a continuous line of embankment on the right bank of the river Rupnarain, 29 miles 2,373 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground, distant 57 feet south-east by compass from the Jassur masonry-sluice on the right bank of the Durbachati *khal*, in the village of Salika of *pargana* Mandalghát, and terminates at a masonry-pillar on the bank of the Banka *khal*. This masonry-pillar is 240 feet north of the Pile Bridge over the Banka *khal*, in the village of Kámálpur in *pargana* Mahishádal.

NOTE—26 miles 894 feet are maintained by the Public Works Department, and the remaining 3 miles 1,479 feet, being portion of the embankment through Tamruk, are in charge of the Municipality and the District Board.)

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(Schedule D.)

No. 10.

Right Embankment on the Páyrátungi Khál.

This is a continuous line of embankment on the right bank of the Páyrátungi *khal*, 4,410 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Páyrátungi of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar distant 187 feet west of a temple on the Tamluk Road, in the village of Bárpadubasan in the said *pargana*.

No. 11.

Left Embankment on the Páyrátungi Khál.

This is a continuous line of embankment on the left bank of the Páyrátungi *khal*, 4,370 feet, more or less, in length. It commences at a masonry-pillar in the ground in the village of Páyrátungi of *pargana* Tamluk, and on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Bárpadubasan in the said *pargana*.

No. 12.

Right Embankment on the Gángákháli Khál.

This is a continuous line of embankment on the right bank of the Gángákháli *khal*, 3 miles 3,430 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sudhápúr of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry pillar distant 675 feet east of the Raghunáthpur masonry-sluice in the village of Sayadpur in the said *pargana*.

No. 13.

Left Embankment on the Gángákháli Khál.

This is a continuous line of embankment on the left bank of the Gángákháli *khal*, 3 miles 1,670 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Mahishdá of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar, distant 170 feet north-east of the Raghunáthpur masonry-sluice on the right bank of the Gángákháli *khal*, in the village of Raghunáthpur in the said *pargana*.

(Schedule D.)

No. 14.

Right Embankment on the Shuáddighi Khal.

This is a continuous line of embankment on the right bank of the Shuáddighi khal, 2 miles 3,990 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuáddighi of *pargana* Tamluk, on the Rupnarain imbankment, right bank, and terminates at a masonry-pillar in the village of Jashomantapur in the said *pargana*.

No. 15.

Left Embankment on the Shuáddighi Khal.

This is a continuous line of embankment on the left bank of the Shuáddighi khal, 2 miles 1,690 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shuáddighi of *pargana* Tamluk, on the Rupnarain embankment, right bank, and terminates at a masonry-pillar in the village of Hoglá in the said *pargana*.

No. 16.

Right Embankment on the Durbáchatí Khal.

This is a continuous line of embankment on the right bank of the Durbáchatí khal, 1 mile 3,510 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhúdaha Factory Chimney in the village of Bhúdaha of *pargana* Mandalghát, and terminates at a masonry-pillar distant 57 feet south-east of the Máchnán masonry-sluice in the village of Máchnán in the said *pargana*.

(The following Notification has been published with respect to this embankment :—

Notification No. 223, dated the 11th November, 1902, published in the Calcutta Gazette, 1902, Pt. I, p. 1488.

In modification of the description and length of the right embankment on the Durbáchatí khal, being No. 16 in Schedule D of Act VI (B. C.) of 1873, the following is published for general information :—

No. 16.

Right Embankment on the Durbáchatí Khal.

This is a continuous line of embankment on the right bank of the Durbáchatí khal, 2 miles 960 feet, more or less, in

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length. It commences at a masonry-pillar fixed in the ground at a distance of 550 feet north-north-east of the Bhūdaha Factory Chimney in the village of Bhūdaha of pargana Mandalghāt, and terminates at a masonry-pillar, distant 57 feet south-east of the Jassur masonry-sluice in the village of Salika in the said pargana.)

No. 17.

Mohankhāli Circuit Embankment.

This is a circuit embankment 28 miles 3,258 feet, more or less, in length. It commences at a masonry-pillar fixed in the village of Kultikri where the Mohankhāli river runs into the Rupnarain river, and passing along the right bank of the Mohankhāli river through the villages of Jothghanashyām, Sitāpur Mānuyā to Basantapur, where the Mohankhāli and Durbāchatī rivers bifurcate, thence skirting the left bank of the Durbāchatī river it passes through the villages of Shāpur, Basāripur, and Brahmagriha to Kāchda, thence skirting the Rupnarain, right bank, it passes through the village Dūdh-komrā and Bāghchenā, and terminates at the masonry-pillar aforesaid.

No. 18.

Pārnā Circuit Embankment.

This is a circuit embankment 9 miles 3,640 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilāi river and its junction with the Kānsāi river near a temple in the village of Bāragovinda, pargana Baradā. It passes through the villages of Barmadihi and Rānibāzār, on the left bank of the Shilāi river, and then along the right bank of the Kāntā khāl through the villages of Bhāngādaha, Pārnā, Bārmadihihil, Tabli, and Dharmapur, and terminates at the aforesaid pillar.

No. 19.

Ghatal Circuit Embankment.

This is a circuit embankment 10 miles 1,850 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Shilāi river at its bifurcation with the Argarā river, and passing along the left bank of the Shilāi river and through the villages of Shrirāmpur, Bāsudeb-pur and Sinhapur, it skirts the right bank of the Argarā ~~khāl~~

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through the villages of Rámchandrapur, Raghunáthchack and others, and terminates at the masonry-pillar aforesaid.

No. 20.

Shekhpur Circuit Embankment.

This is a circuit embankment, 18 miles 5,108 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the bifurcation of the rivers Sankrá and Jhumi in the village of Shekpur of *pargana* Baydá, and passing along the left bank of the Jhumi river through the villages of Shrimantapur, Anandapur and Thákrunchak, thence along the right bank of the Sankrá river through the villages of Nara-sinhachak, Kulát, Gujrát and others, terminates at the aforesaid masonry-pillar.

No. 21.

Khásbar Circuit Embankment.

This is a circuit embankment 5 miles 5,240 feet, more or less in length. It commences at a masonry-pillar built in the ground at the point of bifurcation of the Jhumi and Amdá rivers in the village of Lálchak, *pargana* Baradá and passing along the right bank of the Jhumi river through the villages of Párvatichak, Prasádechak and Jaybágh, and thence along the left bank of the Amdá river through the villages of Khásbar, Soi and Lálchak, it terminates at the aforesaid masonry-pillar.

No. 22.

Chetuya Circuit Embankment.

This is a circuit embankment 45 miles 1,420 feet, more or less, in length. It commences at a masonry-pillar built in the ground at the junction of the Rupnarain river and Mohámkáli *khal* in the village of Mahishghátá, *pargana* Khárijí Mandalghát and passing along the left bank of the Mohankhali *khal* through the villages of Dakhidbar, Gaurichak, Govindanagar and Biantapur, thence along the left bank of the Kánsái river through the villages of Kolá, Maheshpur, Gokulnagar and Islámpur, thence along the right bank of the Shilái river through the villages of Surathpur, Raghunáthpur and Konnagar, to the junction of the Shilái and Rupnarain rivers at Pratáppur, and thence along the right bank of the Rupnarain river through the villages of Harishpur, Jalkanáram, Ránichak and

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Gopiganja, it terminates at the aforesaid masonry-pillar.

No. 23.

Dushwáspur Circuit Embankment.

This is a circuit embankment 18 miles 2,350 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the right bank of the Kánsái river, distant 704 feet and bearing 2° from the Dushwáspur sluice in the village of Dushwáspur of *pargana* Chetuyá, and passing along the right bank of the Kánsái river through the villages of Nabindáspur, Kunjapur, Maheshpur, Teláodi, and Briksbabánpur, thence passing along the left bank of the Petuyá khal through the villages of Fatehpur, Gadáipur and Dhánkholá, it terminates at another masonry-pillar in the village of Krittibáspur, *pargana* Chetuyá.

No. 24.

Nádájol Embankment.

This is an embankment 7 miles 1,735 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Sámát, *pargana* Chetuyá, and passing along the left bank of the Kánsái river to the village of Madanmohanpur, and thence along the right bank of the Shilái river through the village of Rámadev-pur, it terminates at another masonry-pillar in the village of Chandikháli, *pargana* Chetuyá.

No. 25.

Brindávanchack Embankment.

This is an embankment 2 miles 800 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Brindávanchack, *pargana* Khariji Mandalghát, and running along the right bank of the Durbáchatí khal, terminates at another masonry-pillar in the same village.

No. 26.

Dhángadiyá Embankment.

(Excluded by Notification dated the 24th November, 1887, published in Calcutta Gazette, 1887, Pt. I., p. 961.)

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No. 27.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 7 miles 3,980 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Gaurbázár of *pargana* Shergad, and terminates at a masonry-pillar at the junction of the Tumni *khal* with the Ajai river in the village of Kájládihí of *pargana* Shanpáhádí.

No. 28.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 4 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground near a masonry-sluice near the junction of the Tumni and Bálpáhádí *khal*s in the village of Vishnupur of *pargana* Shanpáhádí, and terminates at the masonry-pillar in the village of Arjumbani in the said *pargana*.

No. 29.

Right Embankment on the Ajai River.

This is a continuous line of embankment on the right bank of the Ajai river, 11 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sátkoniya, *pargana* Shanpáhádí, and terminates at a masonry-pillar in the village of Sagarpostá of *pargana* Gopibhum.

No. 30.

Left Embankment on the Ajai River.

This is a continuous line of embankment on the left bank of the Ajai river, 3 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Sinhi of *pargana* Azmatsháhi, and terminates at a masonry-pillar in the village of Bámuniya in the said *pargana*.

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No. 31.

*Right Embankment on the Damodar River.**(Excluded by Bengal Government's Order No. 674 I., dated the 17th April, 1891.)*

No. 32.

Left Embankment on the Damodar River.

This is a continuous line of embankment on the left bank of the Damodar river, 107 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Shiliyá, *pargana* Chámpánagar, and terminates at a masonry-pillar in the village of Alipore of *pargana* Mandághát.

No. 32 A.

Left Bank of Damodar River.

This is a continuous embankment about 8 miles, more or less, in length. It commences at a masonry-pillar in the main embankment at its bifurcation therewith in the village of Chanchai, and forms nearly a chord line with the edge of the river Damodar, forming part of the Mymaree Road in the village of Kusbah, and terminates at a masonry-pillar in the village of Joyrampur, north-east of Kalnah, where it again joins the main line of embankment.

(No. 32 A. was included in this Schedule by Notification No. 315, dated the 16th August, 1875, published in Calcutta Gazette, 1875, Pt. I, page 1073.)

No. 33.

*Right Embankment on the Damodar River.**(Excluded by Bengal Government's Order No. 674 I., dated the 17th April, 1891.)*

No. 34.

*Right Embankment on the Damodar River.**(Excluded by Bengal Government's Order No. 674 I., dated the 17th April, 1891.)*

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No. 35.

Right Embankment on the Damodar River.

(Excluded by Bengal Government's Order No. 674 I., dated the 17th April, 1891.)

No. 36.

Right Embankment on the Damodar River.

This is a continuous line of embankment on the right bank of the Damodar river, 18 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the village of Wazirpur, *pargana* Haveli, and terminates at a masonry-pillar in the village of Dihī Bārsat of *pargana* Bārsat.

No. 37.

Right Embankment on the Damodar River.

This is a continuous line of embankment on the right bank of the Damodar river, 29 miles 3,560 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Gaighāti *khal* with the Damodar river in the village of Gaighāti, *pargana* Arsā, and terminates at a masonry-pillar at the junction on the Rupnarain and Hooghly rivers at the thirty-second mile-post on the Rupnarain left embankment in the village of Magrāpāthar of *pargana* Mandalghāt.

No. 38.

Left Embankment on the Rupnarain River.

This is a continuous line of embankment on the left bank of the river Rupnarain, 31 miles 3,762 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground at the junction of the Rupnarain river and the Bākshi *khal* in the village of Bākshi, *pargana* Mandalghāt, and terminates at a masonry-pillar at the junction of the Hooghly and Rupnarain rivers at the thirty-second mile-post of the Rupnarain embankment in the village of Magrāpāthar, *pargana* Mandalghāt.

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No. 39.

This is a continuous line of embankment, 41 miles and 155 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Khodálgobra, *pargana* Virakul, and, running generally parallel with the coast-line of the Bay of Bengal, terminates at a masonry-pillar on the Kánthi and Khejri Road on the right bank of the Rasulpur river in the village of Shyámchak, *pargana* Káodámál.

No. 40.

This is a continuous line of embankment, 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground on the Kánthi and Khejri Road on the right bank of the Rasulpur river in the village of Shyámchak, *pargana* Káodámál, and running along the right bank of the Rasulpur river as far as the Kánthi and Tamluk Road, and thence along the right bank of the Shripái river, terminates at a masonry-pillar in the village of Atlágádi, *pargana* Májnámutá.

(The following portion of this embankment was excluded from this Schedule by Notification No. 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527, namely:—

*a portion, 23 miles and 4,066 feet in length, commencing from the pillar in the village of Atlayori and ending at a pillar on the right bank of the Rasulpur river in the village of Dand (parellá, *pargana* Báhirimuttá.)*

No. 41.

This is a circuit embankment on the right bank of the Rasulpur river, 2 miles 4,868 feet, more or less, in length. It commences and terminates at a masonry-pillar built in the ground in the village of Sánbediyá, *pargana* Báhirimuttá.

No. 42.

This is a continuous line of embankment 30 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Atlágádi, *pargana* Májnámutá, and running along the left bank of the Shripái river as far as the village of Keshurkunda on the Kánthi add Midnapore Road, and thence in a northerly direction to Chaumukh on the Bágdáhá river, and thence along the right bank of the Bálgághá

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khal to the east of the Dhubdá *jhil*, terminates at a masonry-pillar on the sand-ridge in the village of Mádhavpur, *pargana* Bhograi.

(The following portions of this embankment were excluded from this Schedule by Notification No. 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527, namely:—

a portion from Atlayori to Dakhin Chowmuk, 18 miles in length, and another portion from Balliaghye to Madhubpur, 11 miles in length.)

No. 43.

(Excluded by Notification No. 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527.)

No. 44.

(Excluded by Notification No. 198, dated the 14th June, 1887, published in Calcutta Gazette, 1887, Pt. I, p. 527.)

No. 45.

This is a continuous line of embankment, 95 miles, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchak, *pargana* Sujámutá, and running along the left bank of the Ekhtiyárpur *khal* to its junction with the Madhukháli river, thence running along the left bank of the Madhukháli river to the Chaundachuli Inspection Bungalow at the confluence of the Rasulpur river and the Kanjapur or Talpati *khal*, thence running along the left bank of the Kunjapur or Talpati *khal* to its embouchure in the Bay of Bengal, thence running parallel to the coast-line as far as the mouth of the river Haldi, thence following the right bank of this river as far as the junction of the Káliághái and Kánsái rivers, and lastly running along the right bank of the Káliághái river, terminates at a masonry-pillar at the village of Nilakanthapur, *pargana* Jalámutá.

No. 46.

This is a continuous line of embankment, 5 miles, more or less, in length, on the right bank of the Káliághái river. It commences at a masonry-pillar built in the ground in the village of Kharán, *pargana* Patáspur, and terminates at another masonry-pillar in the said village.

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No. 47.

This is a circuit embankment, 34 miles 1,000 feet, more or less, in length. It commences at a masonry-pillar built in the ground near the the Barju *ghat* in the village of Barju *pargana* Nárnámutá, and running along the right bank of the Madhukhali river, the left bank of the Bagdaha river, and the right bank of the Chakbhaváni *khal*, terminates at the aforesaid pillar. It passes through the villages of Barju, Shimulbadi, Dishimilá, Khamgádá, Idalpur, Kalarathári, Nishchintar, Ullálbár, Kányabár, Bhástágádá, Khálá Kálkádári, Sundarpur, Mallikpur, Ballabhpur, Sukákhola, Udaypur, Gopálpur, Baḍaśádápur, Tamalpur, Chákbátá, Kalsái, Kulbediyá, Chakmáthuri, Chakhábani, Bhairavadári, South Chánda, Mangalpur, Dakshindári, Pratápdighi, Bámanbásan, Sitádighi, Krishnanagar, Páneshwari, Sháradabar, Mahurá, Chakrashál, Khákuḍá, Mangalchak, Tonáb'la, Arjunnagar, Puruliyá, Maheshdá, Khámngádá, Málḍaha, Bárji, and *parganas* Nárnámutá, Kismat Paṭáspur, Kismat Dánta, Kharáig, Pratápján, Paṭáspur and Bhátgaḍ.

No. 48.

This is a circuit embankment, 11 miles 1,541 feet, more or less, in length, lying between the Madhukhali river and Udbádal *khal*. It commences at a masonry-pillar built in the ground at the junction of the Madhukhali river and Udbádal *khal* in the village of Naturiyá, *pargana* Nárnámutá, and passing through the villages of Udbádal, Chámpainagar Kánáshd'ghi, Náthára, Khátmári, Itabediyá, Náudighi Mánikjoḍ, Hánsghariyá, Mánikjoḍ Bāsudevbediyá, Pátarbediyá *pargana* Nárnámutá terminates at the aforesaid pillar.

No. 49.

This is a circuit embankment, 11 miles 1,525 feet, more or less, in length, lying between the Ekhtiyárpur *khal*, Madhukhali river, and Udbádal *khal*. It commences at a masonry-pillar built in the ground at the junction of the Madhukhali river and Ekhtiyárpur *khal* in the village of Raghunáthchak, *pargana* Nárnámutá, and running along the left bank of the Madhukhali river, left bank of the Udbádal *khal* and right bank of the Ekhtiyárpur *khal*, terminates at the aforesaid pillar. It passes through the villages of Udbádal, Patná, Dumurdari, Padutárdi, South Biyadá, Ichhápur, Pánehghariyá, Bhúpatinagar, Raghunáthchak, Nandichak, Khorinet, Govindapur, Jagannohanpur, Chámpainagar, Khánjádápur, Udbádal, and the *parganas* of Nárnámutá and Káoḍámál.

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No. 50.

This is a continuous line of embankment, 3 miles 3,255 feet, more or less, in length. It commences at a masonry-pillar built in the ground in the village of Rámchack, *pargana* Ságámtá, and running along the right bank of the Ekhtiyár-pur *khal*, terminates at a pillar in the village of Rádhápur, *pargana* Erinchi.

No. 51.

This is a circuit embankment, 7 miles 2,735 feet, more or less, in length, between the Káliághai river and the Bágai *khal*. It commences at a masonry-pillar built in the ground at the junction of the Káliághai river with the Bágai *khal* in the village of Daropátná, *pargana* Patáspur, and passing through the villages of Gokulpur, Gholáhát, Daropátná, *pargana* Patáspur, terminates at the aforesaid masonry-pillar.

No. 52.

This is a circuit embankment 20 miles more or less, in length. It commences at a masonry-pillar built in the ground on the south side of the junction of the Tálpati *khal* with the Rasulpur river in the village of Gumgaḍ, *pargana* Kasbá Hijli and running along the left bank of the Rasulpur river to its confluence with the sea, then following the coast-line to the embouchure of the Tálpati *khal* in the Bay of Bengal, and thence running along the south bank of the Tálpati *khal*, terminates at the aforesaid pillar. It passes through the villages of Gorábár, Davichak, Dandachak, Kátká, Shyámpur, Bágá, Padurbeḍiyá, Nenapátá, Mohendranagar, Kálágachiyá Páñchbaḍi, Osilchak, Honábediyá Orakbeḍiyá, Sálkondá, Sáhebchiak, Bámanchak, Baḍabáḍi, Phulbáḍi and Mulichak, all in the *pargana* Kaská Hijli.

No. 53.

This is a continuous line of embankment, 60 miles 4,110 feet, more or less, in length. It commences at a masonry-pillar built in the ground on the left bank of the Kánsái river in the village of Bágodá, *pargana* Tamluk, and running along the left bank of the Kánsái and Halḍi rivers to the confluence of the latter with the river Hooghly, and thence along the right bank of the Hooghly and Rupnarain rivers, terminates at a masonry-pillar in the village of Bánká, about one-fourth of a mile north of a Hindu temple on the left bank of the Bánká *khal*.

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No. 54.

This a circuit embankment, 12 miles 2,550 feet, more or less, in length, situated between the Káliághái and Kánsái rivers. It commences at a masonry-pillar built in the ground at the junction of the said rivers, and running along the left bank of the Káliághái river and the right bank of the Kánsái river, terminates at the aforesaid pillar. It passes through the villages of Parashu, Nonákhaði, Lakshmanpur, Nárikeldihí, Shunábhay, Áshnan, Chanddabediyá, Máchodal, Kholákhái, Kálkádaði, Páncpukuriyá, Krishnachak and Sálgediyá, all in the *pargana* Tamluk.

No. 55.

Rampur-Boalia old Embankment.

(Excluded by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139.)

No. 55.

Talaimari Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 8,224 feet in length, more or less. It commences at a brick-pillar at the village of Sahibganj, *pargana* Gururhat, passes through villages Ghoramara and Ramchandrapur, and terminates at a brick-pillar fixed at the village of Talaimari, *pargana* Lashkarpur, where it joins with the Rajshahi and Pabna Road.

(This No. 55 was included in this Schedule by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 127.)

No. 56.

Rampur-Boalia Embankment.

(Excluded by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139.)

No. 56.

Boalia Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 14,180 feet in length, more or less. It

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commences by its junction with the *pucca* road at a brick-pillar in the ground at the village of Kassaipara, 1,170 feet, west of Bara Kuti, *pargana* Gururhat. It passes through villages Kassaipara, Khasmahal, Srirampur, Nababganj, Nabinagar, and Bulanpur, and terminates at a point where it joins with the Godagari road embankment in the village of Bulanpur, *pargana* Gururhat, its termination being marked by a brick-pillar in the ground at this point north-west of the Judge's Court-house.

(This No. 56 was included in this Schedule by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 127.)

No. 56 A.

Cutcherry Embankment.

This is a continuous line of embankment on the left bank of the river Ganges, 1,729 feet in length, more or less. It commences at a brick-pillar fixed in the ground on the south side of the Nator road at the village of Bulanpur, *pargana* Gururhat, and terminates at a point where it meets the Rampur-Boalia embankment in the village of Bulanpur, *pargana* Gururhat.

(No. 56 A was included in this Schedule by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 127.)

No. 56 B.

Godagari Road Embankment.

This is a continuous line of embankment (which is also a district road) on the left bank of the river Ganges, 12,250 feet in length, more or less. It commences at a brick-pillar fixed in the ground at the termination of Rampur-Boalia embankment, Schedule D. No. 56, north-west of Judge's Court-house, in the village of Bulanpur, *pargana* Gururhat, passes through villages Khasmahal, Chalnai, Haropur, Gobindapur, and Nabaganga, and terminates at a brick-pillar fixed in the ground in the village of Sonaikandi, *pargana* Gururhat.

(No. 56 B was included in this Schedule by Notification dated the 23rd February, 1885, published in Calcutta Gazette, 1885, Pt. I, p. 139, as amended by Notification No. 797, dated the 12th February, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 127.)

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No. 57.

Maldá Embankment.

This is a continuous line of embankment on the right bank of the Mahánadi river, 11,519 feet, more or less, in length. It commences at a masonry-pillar to be fixed in the ground at the village of Kutabpur, *pargana* Ámirábád, and terminates at a masonry-pillar in the village of Maheshpur, *pargana* Bhátiyá.

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No. 58.

Left Embankment on the river Hooghly.

This is a continuous embankment on the left bank of the river Hooghly, 5 miles 4,500 feet, more or less, in length. It commences at Manikháli *khal*, at a masonry-pillar fixed in the ground in the village of Jagannáthnagar, and terminates at a masonry-pillar in the village of Mijghar, on the north side of Chaḍiyal *khal* near the junction of the Hooghly river and Chaḍiyal *khal*.

No. 59.

Right Bank of Chaḍiyal Khal.

This is a continuous embankment on the right bank of the Chaḍiyal *khal*, 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Mijghar, on the north side of Chaḍiyal *khal* near the junction of Hooghly river and Chaḍiyal *khal*, and terminates at a masonry-pillar in the village of Gharbanmoniyá, on the north bank of Chaḍiyal *khal* near the junction of Chaḍiyal *khal* and the Calcutta and Achipore Road.

(A portion of this embankment, measuring 1,150 feet, commencing from village Banjhanpara and terminating in village Chaḍiyal at the masonry-pillar on the side of the Calcutta and Achipore Road, was relinquished under order by the Government of Bengal, Revenue Department No. 2014, dated the 23rd May, 1892.)

No. 59 A.

Right Bank of Chaḍiyal Khal.

This is a line of embankment 1,290 feet, more or less, in length, constructed in 1891 on the right bank of the Chaḍiyal

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drainage outfall channel. It commences from the end of the old Chadiyal *khal* right embankment, abandoned in 1892, in the village of Banjhanpara, *pargana* Ballea, district 24-Parganas, and running along the right bank of the new Chadiyal drainage outfall channel, it terminates at its junction with the embankment on the left bank of the river Hooghly at its sixth mile in the village of Joychandipore, *pargana* Ballea, district 24-Parganas.

(No. 59A was included in this Schedule by Notification No. 177, dated the 20th May, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 503. The Notification declared that this embankment should remain in the Schedule only so long as the Chadiyal *khal* drainage works are maintained. Those works are still maintained.)

No. 60.

Left Bank of Chadiyal Khal.

(A portion of this embankment, measuring 1,290 feet, commencing from the masonry-pillar on the side of the Calcutta and Achipore Road, in village of Joychandipur, and terminating on the side of Chadiyal *khal* in the same village, was relinquished under order by the Government of Bengal, Revenue Department No. 2014, dated the 23rd May, 1892. The rest of the embankment, measuring 1,990 feet, was excluded from this Schedule by Notification No. 176, dated the 20th May, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 503.)

No. 60.

Left Bank of Chadiyal Khal.

This is a line of embankment 1,100 feet, more or less, in length, constructed in 1891 on the left bank of the Chadiyal drainage outfall channel. It commences from the end of the old Chadiyal *khal* left embankment, abandoned in 1892, in the village of Joychandipur, *pargana* Ballea, district 24-Parganas, and running along the left bank of the new Chadiyal drainage outfall channel, it terminates at its junction with the embankment on the left bank of the Hooghly river at its seventh mile and the above-mentioned village of Joychandipur.

(This No. 60 was included in this Schedule by Notification No. 177, dated the 20th May, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 503. The Notification declared that this embankment should remain in the Schedule only so long as the Chadiyal *khal* drainage works are maintained. Those works are still maintained.)

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No. 61.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of Hooghly river, 19 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Joychandipur, near the junction of river Hooghly and Chadiyal *khal*, and continues along the left bank of Hooghly river to Pújali *khal*, on both sides of Pújali *khal*, between the river Hooghly and the road leading from Calcutta to Achipur, and again down the left bank of the river Hooghly to the right bank of Faltá *khal*, and terminates at a masonry-pillar in the village of Faltá near the junction of river Hooghly and Faltá *khal*.

No. 62.

Right Bank of Faltá Khal.

This is a continuous embankment on the right bank of Faltá *khal*, 2 miles 1,320 feet, more or less, in length. It commences at a masonry-pillar in the village of Faltá, on the north side of the *khal*, near the junction of river Hooghly and Faltá *khal*, and terminates at a masonry-pillar on the right bank of Faltá *khal* in the village of Sohàrà.

No. 63.

Left Bank of Faltá Khal.

This is a continuous embankment on the left bank of Faltá *khal*, 2 miles 1,360 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Faltá *khal*, in the village of Bāsudiápur, and terminates at a masonry-pillar on the left bank of the *khal* in the village of Táráganj, near the junction of River Hooghly and Faltá *khal*.

No. 64.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of river Hooghly, 11 miles 2,780 feet, more or less, in length. It commences at a masonry-pillar in the village of Táráganj, near the junction of river Hooghly and Faltá *khal*, and terminates at a masonry-pillar in the village of Shimulganja, on the right bank of Khólákhali *khal*, near its junction with Hooghly river.

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No. 65.

Right Bank of Khólàkhali Khal.

This is a continuous embankment on the right bank of Khólàkhali *khal*, 3,500 feet, more or less, in length. It commences at a masonry-pillar in the village of Shimulganja on the right bank of Khólàkhal *khal*, near its junction with Hooghly river, and terminates at a masonry-pillar on the right bank of the *khal* in the village of Darigovindapur.

No. 66.

Left Bank of Khólàkhali Khal.

This is a continuous embankment on the left bank of Khólàkhali *khal*, 4,800 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Khólàkhali *khal* in the village of Jangalpada, and terminates at a masonry-pillar on the left bank of the *khal* in the village of Rámchandranagar, near the junction of the Hooghly river and Khólàkhali *khal*.

No. 67.

Left Bank of Hooghly River.

This is a continuous embankment on the left bank of River Hooghly, 3 miles 2,260 feet, more or less, in length. It commences at a masonry-pillar in the village of Rámchandrapur, near the junction of Hooghly river and Khólàkhali *khal*, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hajipur, near the junction of Hooghly river and Diamond Harbour Creek.

No. 68.

This is a continuous embankment on the right bank of the Diamond Harbour Creek, 7 miles 3,100 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Hajipur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Diamond Harbour Creek in the village of Diyarná.

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No. 69.

Left Bank of Diamond Harbour Creek.

This is a continuous embankment on the left bank of Diamond Harbour Creek, 6 miles 680 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek, in the village of Diyárná and terminates at a masonry-pillar on the left bank of the Diamond Harbour Creek in the village of Mádhavpur, near the junction of Hooghly river and Diamond Harbour Creek.

No. 70.

Left Bank of the Hooghly River.

This is a continuous embankment on the left bank of the river Hooghly, 8 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Diamond Harbour Creek, in the village of Mádhavpur, near the junction of Hooghly river and Diamond Harbour Creek, and terminates at a masonry-pillar on the right bank of Kulpi Nadi, in the village of Mashámári, near the junction of Hooghly river and Kulpi Nadi.

No. 71.

Right Bank of Kulpi Nadi.

This is a continuous embankment on the right bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the right bank of Kulpi Nadi in the village of Mashámári, and terminates at a masonry-pillar on the right bank of Kulpi Nadi in the village of Jánakimári.

No. 72.

Left Bank of Kulpi Nadi.

This is a continuous embankment on the left bank of Kulpi Nadi, 1 mile, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi in the village of Gauripur, and terminates at a masonry-pillar on the left bank of Kulpi Nadi in the village of Durgánagar, near the junction of Hooghly river and Kulpi Nadi.

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No. 73.

Left Bank of River Hooghly.

This is a continuous embankment on the left bank of Hooghly river, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Kulpi Nadi, in the village of Durganagar, near the junction of Hooghly river and Kulpi Nadi, and terminates at a masonry-pillar in the village of Chalámuri near Chalámuri Semaphore.

No. 74.

Sundarban Embankment.

This is a continuous embankment in the Sundarbans, 8 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Chalámuri, near Chalámuri Semaphore, and terminates at a masonry-pillar near the right bank of the Shrirámpur khal in the village of Vaidyanáthpur.

No. 75.

Right Bank of Shrirámpur Khal.

This is a continuous embankment on the right bank of the Shrirámpur khal, 6 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Shrirámpur khal, in the village of Vaidyanáthpur, and terminates at a masonry-pillar in the village of Kontáheniyá.

(The following portion of Embankment No. 75 was excluded from this Schedule by Notification No. 23, dated the 19th September, 1905, published in Calcutta Gazette, 1905, Pt. I, p. 1623, namely:—

A portion of this embankment, 3 miles 870 feet, more or less in length, commencing at a masonry-pillar on the right bank of the Shrirámpur khal in the village of Chuttrachuck, at the place where an embankment has been constructed across the Shrirámpur khal, and terminating in the village of Kontáheniyá.)

No. 76.

Left bank of Shrirámpur Khal.

This is a continuous embankment on the left bank of Shrirámpur khal, 9 miles 2,640 feet, more or less, in length.

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It commences at a masonry-pillar in the village of Kontáheniyá, and terminates at a masonry-pillar on the left bank of the Srirámpur *khal* in the village of Tákitpur Dighi.

(The following portion of Embankment No. 76, was excluded from this Schedule by Notification No. 23, dated the 19th September, 1905, published in Calcutta Gazette, 1905, Pt. I, p. 1623, namely:—

A portion of this embankment, 4 miles 570 feet, more or less in length, commencing at a masonry-pillar in the village of Kontáheniyá and terminating in the village of Chuttrachuck at the place where an embankment has been constructed across the Srirámpur khal.)

No. 76A.

This is a continuous embankment across the Srirámpur *khal*, 500 feet, more or less, in length. It commences at a masonry-pillar in the village of Chuttrachuck and terminates in the same village at a distance of 500 feet from that pillar.

(No. 76A was included in this Schedule by Notification No. 13, dated the 16th May, 1905, published in Calcutta Gazette, 1905, Pt. I, p. 1891.)

No. 77.

Sundarban Embankment.

This is a continuous embankment in the Sunderbans, 26 miles, more or less, in length. It commences at a masonry-pillar on the left bank of Srirámpur *khal* in the village of Tákitpur Dighi, and terminates at a masonry-pillar on the right bank of Kháqi *khal* in the village of Gulárchánt.

No. 78.

Right Bank of Kháqi Khal.

This is a continuous embankment on the right bank of Kháqi *khal*, 3 miles 602 feet, more or less, in length. It commences at a masonry-pillar on the right bank of Kháqi *khal* in the village of Gulárchánt, and terminates at a masonry-pillar in the village of Meghibed, near a drainage sluice.

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No. 79.

Left Bank of Khāḍi Khal.

This is a continuous embankment on the left bank of Khāḍi *khal*, 3 miles 2,040 feet, more or less, in length. It commences at a masonry-pillar in the village of Meghibed, and terminates at a masonry-pillar on the left bank of the *khal* in the village of Kāmārhātā.

No. 80.*Sundarban Embankment.*

This is a continuous embankment in the Sundarbans, 19 miles more or less, in length. It commences from a masonry-pillar on the left bank of the Khāḍi *khal*, in the village of Kāmārhātā, and terminates at a masonry-pillar on the right bank of Piyāli river in the village of Talpi.

No. 81.

Right Bank of Piyāli River.

This is a continuous embankment on the right bank of Piyāli river, 3 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Piyāli river in the village of Talpi, and terminates at a masonry-pillar on the right bank of the Piyāli river in the village of Chordākāiti.

No. 82.*Right Bank of Sūrjyapur Khal.*

This is a continuous embankment on the right bank of Sūrjyapur, of Pashchanbāhan *khal*, 8 miles, more or less, in length. It commences at a masonry-pillar, on the right bank of Piyāli river, in the village of Chordākāiti, and terminates at Pashchanbāhan sluice in the village of Bulbuliyā.

No. 83.

Left Bank of the Sūrjyapur Khal.

This is a continuous embankment on the left bank of Sūrjyapur or Pashchanbāhan *khal*, 4 miles 2,640 feet, more or less

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in length. It commences at a Pashchanbáhan sluice in the village of Bulbuliyá and terminates at a masonry-pillar on the left bank of Sürjyapur *khal* in the village of Rámnagar.

No. 84.

Right Bank of the Piyáli River.

This is a continuous embankment on the left side of Piyáli river, 9 miles 2,100 feet, more or less. It commences at a masonry-pillar on the left bank of Sürjyapur *khal* in the village of Rámnagar, and terminates at a masonry-pillar on the right bank of Vidyádhari river, in the village of Sāngar, near the junction of Vidyádhari and Piyáli rivers.

No. 85.

Left Bank of Piyáli River.

This is a continuous embankment on the left bank of Piyáli river, 3 miles 3,960 feet, more or less, in length. It commences from a masonry-pillar on the left bank of Piyáli river in Sundarban Lot No. 45, and terminates in a masonry-pillar on the right bank of the Bághmári *khal* in the village of Jalyerát, near the junction of Piyáli river with Bághmári *khal*.

No. 86.

Left Bank of Bághmári Khal.

This is a continuous embankment on the left bank of the Bághmári *khal*, 2 miles 2,610 feet, more or less, in length. It commences from a masonry-pillar in the village of Jalyerát, near the junction of Piyáli river and Bághmári *khal*, and terminates at a masonry-pillar at the side of Matla road in the village of At Rámdhar.

No. 87.

Right Bank of Bághmári Khal.

This is a continuous embankment on the right side of Bághmári *khal*, 1 mile 1,320 feet, more or less, in length. It commences at a masonry-pillar at the side of Matla road in the village of Kulari, and terminates at a masonry-pillar on the left bank of Piyáli river in the village of Kist Kálabaruyi. •

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No. 88.

Left Bank of Piyāli River.

This is a continuous embankment on the left bank of the Piyāli river, 4 miles 2,460 feet, more or less, in length. It commences at a masonry-pillar on the left bank of Piyāli river in the village of Kist Kālābārui, and terminates at a masonry-pillar in the village of Pavan, about a quarter of a mile north of the Calcutta and South-Eastern Railway.

(The following portion of embankment No. 88 was excluded from this Schedule by Notification No. 13,¹ dated the 21st December, 1907,—published in Calcutta Gazette, 1907, Pt. 1, p. 2307, namely:—

A portion of this embankment, 3 miles 3,418 feet, more or less, in length, commencing in the village of Goredaha, 100 feet north of Eastern Bengal State Railway line, where the embankment crosses it and ending at the village of Kalaboro, 2,370 feet south of the Canning Road.)

No. 89.

Left Bank of Piyāli River.

This is a continuous embankment on the left bank of Piyāli river, 2 miles 2,640 feet, more or less, in length. It commences at a masonry-pillar in the village of Shrikrishnapur, and terminates at a masonry-pillar on the right bank of Vidyādhari river near the junction of Vidyādhari and Piyāli rivers.

No. 90.

Right Bank of Vidyādhari River.

This is a continuous embankment on the right bank of Vidyādhari river, 8 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyādhari river in the village of Bāliyāpur, and terminates in a masonry-pillar on the right bank of the same river, near the junction of Vidyādhari and Piyāli rivers.

¹ This number was altered from "B" to "13" by notification dated the 6th January, 1908, published in the Calcutta Gazette, 1908, Pt. I, p. 41.

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No. 91.

Right Bank of Vidyádhari.

This is a continuous embankment on the right bank of Vidyádhari river, 2 miles 3,120 feet, more or less, in length. It commences at a masonry-pillar near the junction of the Vidyádhari and Piyáli rivers in the village of Sāngar, and terminates at a masonry-pillar on the right bank of Vidyádhari river near its junction with Tolly's Canal in the village of Pratápnagar.

No. 92.

South side of Tolly's Canal.

This is a continuous embankment on the south side of Tolly's Canal, 10 miles, more or less, in length. It commences at a masonry-pillar on the right bank of Vidyádhari river, near the junction of Vidyádhari river and Tolly's Canal in the village of Pratápnagar, and terminates at a masonry-pillar on the south side of Tolly's Canal in the village of Karmábad.

No. 93.

North side of Tolly's Canal.

This is a continuous line of embankment on the north side of Tolly's Canal, 2 miles 4,020 feet, more or less in length. It commences at a masonry-pillar on the north side of the Tolly's Canal, in the village of Naoyábád, and terminates at a masonry-pillar in the jungle in the village of Tehuráhá.

No. 94.

Bhagirathi Embankments.

This is a line of disconnected embankment on the left bank of the Bhagirathi river, extending from Paláshi *bázár*, *pargana* Paláshi, district Nadia, to Dádmati, *pargana* Rokanpur, district Murshidabad, a distance of about 93 miles.

(The following portion of this embankment was excluded from this Schedule by Notification No. 149, dated the 20th

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May, 1901, published in Calcutta Gazette, 1901, Pt. I, p. 655, namely:—

the portion that lies between the new Bhagwangola retired embankment and the north-west corner of the said embankment near the 69th milestone.)

The following notification has been published with respect to this embankment:—

Notification No. 9, dated the 13th July, 1909, published in Calcutta Gazette, 1909, Pt. I, p. 970.

In modification of the length and description of the Embankments Nos. 94 and 94A and of No. 95 in Schedule D of Act VI (B.C.) of 1873, the following is published for general information:—

No. 94.

Bhagirathi Embankment.

This is a line of disconnected embankment on the left of the Bhagirathi river, extending from Bhagwangola, *pargana* Islampur, district Murshidabad, to Plassey, *pargana* Plassey, district Nadia, a distance of about 58 miles 740 feet.

No. 94A.

Mowla cross-bund.

Cross embankment to protect the village of Mowla (Rajpur) in the district of Murshidabad, connecting the existing portion of embankment No. 94 of the Bhagirathi left embankment, in mile 34, chain 12, with the new retired line of the same embankment in mile 31, chain 13.20. The length of this cross embankment is 507 feet.

(Embankment No. 94A was included in this Schedule by Notification No. 18, dated the 20th June, 1905, published in Calcutta Gazette, 1905, Pt. I, p. 1127.)

The following notification has been published with respect to this embankment:—

Notification No. 9, dated the 13th July, 1909, published in Calcutta Gazette, 1909, Pt. I, p. 970).

In modification of the length and description of the Embankments Nos. 94 and 94A and of No. 95 in Schedule D of Act VI (B.C.) of 1873, the following is published for general information:—

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No. 94A.

Mowla cross-bund.

This is a small cross-bund joining embankment No. 94 (Bhagirathi embankment) with the new Mowla retired line as a protection to the Rajapur village on the left bank of the Bhagirathi river, *pargana* Kulberia, district Murshidabad, a distance of about 507 feet.

No. 94B.

Ganges Embankment.

This is a line of continuous embankment on the right bank of the Ganges river, extending from Bhagwangola, *pargana* Islampur, district Murshidabad, to Dadmati, *pargana* Kashipur, district Murshidabad, a distance of about 10 miles 2,980 feet.

(Nos. 94B and 94C were included in this Schedule by Notification No. 9, dated the 13th July, 1909, published in Calcutta Gazette, 1909, Pt. I, p. 970.)

No. 94C.

Ganges-Bhagirathi Embankment.

This is a line of continuous embankment on the right bank of the river Ganges and left bank of the Bhagirathi river, extending from Bhagwangola, *pargana* Islampur, district Murshidabad, to Kulgachi, *pargana* Dehat Akharshahi, district Murshidabad, a distance of about 15 miles 3,505 feet.

(Nos. 94B and 94C were included in this Schedule by Notification No. 9, dated the 13th July, 1909, published in Calcutta Gazette, 1909, Pt. I, p. 970.)

No. 95.

Kachikata Embankment.

This is a continuous line of embankment about 5,220 feet in length, on the right bank of the Mathabhauga river. It commences in the village of Lakshimpur or Ramnagar, *pargana* Shahaujiyal, district Nadia, and terminates at

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Parkrishnapur at the bottom of the new cut opposite the village of Munshigunge in the same *pargana* and district.

(This No. 95 was substituted by Notification No. 9, dated the 13th July, 1909, published in *Calcutta Gazette*, 1909, Pt. I, p. 979, for the No. 95 published with Notification No. 353, dated the 8th November, 1887.)

No. 96.

Panchanogram Embankment.

This is a continuous embankment, 3 miles and 1,400 feet, more or less, in length in the Government estate, Panchanogram. It commences in village Kalikopore, and terminates in villages Shaumbadut and Chowbhanga of *pargana* Calcutta, Dehi Panchanogram.

(This embankment was included in this Schedule by Notification No. 160, dated the 8th April, 1884, published in *Calcutta Gazette*, 1884, Pt. I, p. 516. That Notification declared that the embankment should remain in the Schedule as long as the Government is the proprietor of the Panchanogram estate. The number "96" was given by Notification No. 275, dated the 20th July, 1886, published in *Calcutta Gazette* 1886, Pt. I, p. 865.)

No. 97.

Connecting Embankment.

This is a continuous line of embankment on the right bank of the Cossye river, 3 miles 986 feet, more or less, in length. It commences at the Mohanpore Lock of the Midnapore Canal in the village of Sopeabad of *pargana* Khurruckpore, and terminates at a masonry-pillar in the village of Inda in the said *pargana*.

(No. 97 was included in this Schedule by Notification No. 276, dated the 20th July, 1886, published in *Calcutta Gazette*, 1886, Pt. I, p. 865.)

No. 98.

Khurruckpore Embankment.

This is a continuous line of embankment on the right bank of the Cossye river, 3 miles, more or less, in length. It commences at a masonry-pillar fixed in the ground in the

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village of Chorapal of *pargana* Khurruckpore, and terminates at a masonry-pillar in the village of Inda in the said *pargana*.

(No. 98 was included in this Schedule by Notification No. 276, dated the 20th July, 1886, published in Calcutta Gazette, 1886, Pt. I, p. 865.)

No. 99.

Flank Embankment.

This is a continuous line of embankment on the left bank of the Cossye river, 4,000 feet, more or less, in length. It commences at a masonry-pillar fixed in the ground near the Midnapore Workshops in the village of Nankar Bullubpore of *pargana* Midnapore, and terminates at the north abutment of the Midnapore weir in the village of Srirampore in the said *pargana*.

(No. 99 was included in this Schedule by Notification No. 276, dated the 20th July, 1886, published in Calcutta Gazette, 1886, Pt. I, p. 865.)

No. 100.

Chowmuk Embankment.

(This embankment was included in this Schedule by Notification No. 29, dated the 24th January, 1888, published in Calcutta Gazette, 1888, Pt. I, p. 63, and excluded again by Notification No. 219, dated the 25th June, 1894, published in Calcutta Gazette, 1894, Pt. I, p. 717.)

No. 100A.

Chowmuk Embankment.

This is a continuous line of flood embankment, 6 miles, more or less, in length, and forms the right bank of the Balliaghya Drain, and takes the place of the left embankment, Chowmuk No. 100, to be now abandoned as superfluous. It commences from the Surpai Drainage sluice in the village of Surpai, *pargana* Narooamootta, and runs up to village of Chowmuk, *pargana* Paharpur.

(No. 100A was included in this Schedule by Notification No. 220, dated the 25th June, 1894, published in Calcutta Gazette, 1894, Pt. I, p. 718. The Notification declared that this embankment should remain in the Schedule only so long as the Government is the proprietor of the estates to which it affords protection.)

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Boycaree Boar Water-course.

Whereas it appears to His Honour the Lieutenant-Governor of Bengal that the water-course, known as Boycaree Boar, from the Koyjoori Regulator, in the village of Koyjoori, in the district of 24-Parganas, passing through the villages of Kalinee and Boycaree, in the district of Khulna, joins Darbhanga *Bheel* channel at about 3,500 feet below Bagdipara, in the district of Khulna, and drains Bullee *bheel* and the adjacent country; it is proclaimed for general information that this water-course, 2 miles and 940 feet in length, is declared a public water-course, and will be included in Schedule D under the provisions of sections 7 and 43 of Act II (B.C.) of 1882.

(This water-course was included in this Schedule by Notification No. 178, dated the 20th May, 1895, published in Calcutta Gazette, 1895, Pt. I, p. 504.)

Northern Drainage Cut Water-course.

This water-course was included in this Schedule by Notification No. 12, dated the 21st March, 1910, published in Calcutta Gazette, 1910, Pt. I, p. 414, which runs as follows:—

Whereas it appears to His Honour the Lieutenant-Governor of Bengal, that the water-course, commonly known as the Northern Drainage cut, on the left bank of the river Bhagirathi from Bistupur *Bhil* to Gobra *Nala*, in the district of Murshidabad, has been taken over from the Murshidabad District Board in connection with the Bistupur Drainage Project, it is notified for general information that this water-course, five miles in length, is declared a public water-course, and will be included in Schedule D of Act VI (B.C.) of 1873 under the provisions of sections 7 and 43 of Act II (B.C.) of 1882.

SCHEDULE E.

(Referred to in sections 36 and 44.)¹

Pargana.			District.			Amount of contribution.		
						Rs.	A.	P.
Fatehsinba	...	...	Murshidabad	...	...	1,706	10	8
Rokanpur	...	...	Ditto	...	...	1,466	2	0

¹ Sections 36 and 44 of this Act were repealed by the Bengal Embankment Act, 1883 (Ben. Act, 3 of 1883), s. 2, printed post, p. 685. But sections 44 and 54 of the latter Act contain provisions as to this Schedule.

BENGAL ACT 5 OF 1875

(THE BENGAL SURVEY ACT, 1875).

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31. Summary apportionment between *zamindar* and tenure-holders.
32. Notice to *zamindar* when provisional apportionment made summarily.
33. Procedure on provisional apportionment.
34. Mode of apportionment among tenures.
35. Notice of apportionment in respect of tenures.
No separate notice to tenure-holder required to pay less than two rupees.
36. Collector not to issue notices to tenure-holders until *zamindars* have deposited costs.
37. Apportionment between tenure-holder and holder of subordinate tenure.
38. Recovery of sums payable to *zamindar* or tenure-holder.
39. Recovery of sums expended by Government.

PART V.

BOUNDARY-DISPUTES.

40. Procedure in case of disputes as to boundary.
41. Mode of determining boundary.
Force of Collector's order.
42. Power of Collector to take possession of land in dispute.
43. Power to refer to arbitration.
44. Relaying boundary previously determined by Court or by revenue-survey.
Collector may deviate from boundary if parties agree.
45. Power of Collector in case of doubt or dispute as to boundary determined by Court or laid down by survey.
46. In certain cases Collector may cause marks to be erected.

of 1875.]

PART VI.

Section.

MISCELLANEOUS.

- 47. Joint *zamindars* subject to every liability imposed on single *zamindars*.
- 48. Service of notice.
- 49. No proceedings under Act affected by mistake or misdescription.
- 50. Power of Collector to enforce attendance of witnesses.
- 51. Daily fine for failure to comply with requisition in notice.
- 52. Penalty for not giving notice of injury to boundary-mark.
- 53. Penalty for removing boundary-marks.
- 54. Collector may award portion of fine to informer.
- 55. Levy of fine.
- 56. When person removing boundary-mark cannot be found, Collector may repair.
- 57. Every amount due deemed a demand.
- 58. Appeal against orders.
Supervision of proceedings.
Government may restrict functions of Commissioner.
- 59. Appeal against certain orders of Assistant Superintendent or Deputy Collector.
- 60. Appeal against certain orders of Collector or Superintendent of Survey.
- 61. Orders as to costs on appeal.
- 62. No suit to be brought unless appeal first preferred.
- 63. Board of Revenue may lay down rules with sanction of Lieutenant-Governor.

BENGAL ACT 5 OF 1875

(THE BENGAL SURVEY ACT, 1875).¹

(6th October, 1875.)

An Act to provide for the survey and demarcation of land.

Whereas it is expedient, with a view to the definition and identification of lands, the better security of landed property and the prevention of encroachments and disputes, to provide for the survey of lands and for the establishment and maintenance of marks to distinguish boundaries: It is hereby enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Survey Act, 1875.

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch II.*

Short title

It extends to the territories for the time being subject to the Lieutenant-Governor of Bengal.²

Local extent

2. In this Act, unless there be something repugnant in the subject or context,—

Interpretation-clause

“Collector” means every Collector of a district, and includes every officer either generally or specially vested with the powers of a Collector for the purposes of this Act:

“Collector”

“Deputy Collector” includes any Deputy Collector to whom the Collector or Superintendent of Survey may delegate any of his functions under this Act:

“Deputy Collector.”

“estate” means—

any land which is entered on the revenue-roll separately assessed with the public revenue;

as “Estate.”

¹ LEGISLATIVE PAPERS.—For statement of Objects and Reasons, see Calcutta Gazette, 1875, Pt. IV, p. 41; for Report of Select Committee, see *ibid.*, p. 806; for further Report of Select Committee see *ibid.*, p. 461; and for Proceedings in Council, see *ibid.*, 1875, Supplement, pp. 14, 850, 928, 987.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see s. 1; but there is now a separate Act for Calcutta, which is also applicable to Provincial Municipalities—see the Calcutta Survey Act, 1887 (Ben. Act 1 of 1887), *post* p. 988.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2) printed in Vol. I of this Code.

EXERCISE OF POWERS.—For power to confer on Revenue-officers any power, exercisable by any officer under the present Act, see the Bengal Tenancy Act, 1885 (8 of 1885), s. 189 (b), in Vol. I of this Code.

Deputy Collectors making a partition under the Estates Partition Act, 1897 (Ben. Act 5 of 1897), have the powers of a Survey Officer under the present Act—see s. 44 of the former Act, in Vol. III of this Code.

BOUNDARY-MARKS.—As to the application of ss. 19, 20, 29 and 52 to 57 of the present Act to boundary-marks erected under the Estates Partition Act, 1897 (Ben. Act 5 of 1897), see s. 55 (2) of the latter Act, in Vol. III of this Code.

² This includes the present Presidency of Fort William in Bengal and other-territory.

(Part II.—Of the Survey.—Sec. 3.)

any land acquired from the Government under one title, which is liable to pay land-revenue at any future time;

any *char* or island thrown up in a navigable river or in the sea which under the laws in force is at the disposal of the Government;

any land which is entered on the Collector's registers as a separate holding, free in perpetuity from liability to pay land-revenue;

any land gained by alluvion or by dereliction of a river or of the sea to any estate as here defined, which, under the laws in force, is considered an increment to the tenure to which such land has accreted, shall be deemed a part of such estate:

"*Mauza*." "*mauza*" includes every village, hamlet, *tola* and similar sub-division of an estate, *pargana* or village by whatever name such sub-division may be known:

"Occupant." "occupant" includes every *zamindar*, tenure-holder, farmer and other person entitled to receive rents in respect of land, or holding land on a claim that he is so entitled, and every *raiyat* in occupation of land:

"Section." "section" means a section of this Act:

"Survey." "survey" includes identification of boundaries, and all other operations antecedent to and connected with survey:

"Tenure." "tenure" includes all permanent interests in land, with the exception of estates as above defined, and with the exception of those of *raiyats* having a right of occupancy only; it also includes all *ghátwáli* holdings:

"Tenure-holder." "tenure-holder" means all or any of the holders of a tenure:

"*Zamindar*" "*zamindar*" means all or any of the holders of an estate.

PART II.

OF THE SURVEY.

Lieutenant-Governor may order survey.

3. The Lieutenant-Governor¹ may, whenever he shall think fit, order that a survey shall be made of the land situated in any district or in any part of a district or in any specified tract of country, and that the boundaries of estates, tenures, *mauzas* or fields be demarcated on the lands so to be surveyed:

Provided that, in any district of which any survey may have been completed and approved by the Government, it shall not be lawful for the Lieutenant-Governor¹ to order a new survey

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

of 1875.]

(Part II.—Of the Survey.—Secs. 4, 5.)

of lands on the banks of rivers or on the sea-shore to be made for the purposes described in Act 9 of 1847¹ (*an Act regarding the assessment of land gained from the sea or from rivers by alluvion or dereliction within the Provinces of Bengal, Bihar and Orissa*), until ten years shall have expired from the completion and approval of any such previous survey.

4. For the purpose of carrying out any survey directed to be made under the last preceding section, or for any or all of the purposes of this Act,

Lieutenant-Governor or appoint Superintendent of Survey.

the Lieutenant-Governor² may appoint a Superintendent of Survey, who may exercise all or any of the powers of a Collector under this Act;

and may appoint one or more Assistant Superintendents and Deputy Collectors, who shall exercise all the powers of a Collector in respect to such matters under this Act as may be delegated to such Assistant Superintendents or Deputy Collectors respectively by the Collector or Superintendent of Survey, and not otherwise:

Provided that, notwithstanding the appointment of a Superintendent of Survey for any tract of country, it shall be competent to the Board of Revenue to direct that the Collector shall perform any duties under the Act within the said tract.

5. Before entering on any lands for the purpose of a survey the Collector shall cause to be published a proclamation addressed to the occupants of the lands which are about to be surveyed and of the conterminous lands, and to all persons employed on or connected with the management of, or otherwise interested in, such lands, calling upon them to attend, either personally or by agent, before the Collector or any officer authorized by the Collector in that behalf, at such places and at such times as shall be stated in such proclamation, during the demarcation and survey of the land, for the purpose of pointing out the boundaries and of rendering such aid as may be necessary in setting up or repairing such boundary-marks as may be required, and of affording such assistance and information as may be needed for the purposes of this Act.

Collector to publish proclamation before entering on land

Such proclamation shall be published by posting a copy thereof—

at the Court of the Judge and at the office of the Collector of every district within which any portion of the lands about to be surveyed may be known to be situated;

at every sub-divisional office, police-station, *Munsif's* Court and sub-registrar's office within the jurisdiction of which any portion of the land about to be surveyed may be known to be situated;

¹ The Bengal Alluvion and Diluvion Act, 1847. It is printed in Vol. I of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part II.—Of the Survey.—Secs. 6-11.)

at one or more *mâl-cutcherries* on each estate ;
and at such other place or places as to the Collector may seem fit.

Collector may
enter upon
and.

6. After issue of a proclamation as aforesaid, the Collector and any persons acting under his authority may enter upon such lands, and do all things and make all inquiries necessary for effecting the survey and demarcation of the boundaries thereof.

Collector may
serve special
notice.

7. The Collector may also, by a special notice, require any such person to attend before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than fifteen days after the service of the notice, at any places, for any of the purposes aforesaid ; and every person on whom such special notice may be served shall be legally bound to attend as required by the notice, and to do any of the things mentioned in section 5, and to give any information which may be required, so far as he may be able to give it.

Collector to
pay price of
materials or
labour sup-
plied.

8. When any materials or labour shall have been supplied for any of the purposes mentioned in section 5, the Collector or other officer making a requisition under that section shall forthwith cause the price of such materials or labour to be paid to the person by whom the same were supplied.

Collector may
acquire occu-
pants to clear
boundary-
lines.

9. The Collector or other survey-officer authorized by the Collector in that behalf may, by a special notice, require any occupant to clear any boundary or other line which it may be necessary to clear for the purposes of the survey, by cutting down and removing any trees, jungle, fences or standing crops.

Compensation.

10. If any demand for compensation be made in respect of the clearance of any line in accordance with a requisition under the last preceding section, the Collector shall ascertain and record the nature and estimated value of any trees, jungle, fences or standing crops which may have been cut down or removed, and shall offer adequate compensation to the owners thereof, together with payment for all expenses incurred in carrying out the said requisition.

Amîn or sur-
vey-officer to
call upon
persons to
sign maps or
papers.

11. When the demarcation of a village or other convenient tract has been completed, the *amin* or other survey-officer shall, before sending in to the Collector the maps and papers relating thereto,

by a general notice, in which the names of all persons required to appear shall be specified, and which shall be posted up at a convenient place in the village or tract,

call upon all persons who have pointed out any boundaries in such village or tract on behalf of those interested to attend before him within three days of the publication of the said notice for the purpose of inspecting the maps, field books and similar papers in which any boundary pointed out by any such person has been represented, and, by signing such maps and papers, to certify that the boundaries have been laid

of 1875.]

(Part II.—Of the Survey.—Sec. 12.)

down in accordance with the boundaries pointed out by them;

and every person so called upon shall be legally bound to attend before such *amin* or survey-officer, and to inspect the papers, in accordance with such requisition.

Any person so called upon who may object to sign the maps and papers as aforesaid shall be required to state his objections in writing, and such statement shall be attached to the record of the demarcation of the village or tract, and shall be submitted to the Collector together with the maps and papers. Statement of objections.

The signature affixed to any maps or papers under this section shall be in attestation of the fact that the boundaries thereon represented or any of them have been represented in accordance with those pointed out by the person signing; and the affixing of such signature shall not be held to prejudice the right of any person interested to make any objection to such boundaries on any other ground before the Collector under the next succeeding section. Effect of signature.

12. On receipt in the Collector's office of the maps or papers showing any boundaries which have been demarcated, the Collector shall cause a notification to be posted in his office, and in such other places as he may think proper, informing all persons concerned that the maps and papers relating to the boundaries in the village or tract specified are open to inspection; and requiring any person who may have any objections to prefer, to prefer such objections within six weeks of the date of the posting of such notification, after which time the Collector will proceed finally to confirm the boundaries as laid down for the purpose of the survey. On receipt of maps, Collector to post notification in office.

Whenever the Collector shall have reason to believe (either from the failure of any person interested or his representatives to sign the maps and papers on the spot when required by the survey-officer to do so under the last preceding section, or for any other reason) that any *zamindar* or person interested is likely to object to any boundary as laid down or as represented in the said papers, Collector when to issue special notice.

the Collector shall cause¹ a special notice, requiring such *zamindar* or other person to attend personally or by duly authorized agent before him, or before any person authorized by the Collector in that behalf, within a specified time, which shall not be less than one month after the service of the notice, for the purpose of signing and thereby admitting the correctness of any maps or other papers which have been prepared under this Act in respect of any boundary in which such *zamindar* or other person is interested, or of stating in writing

¹ *Sic. Recd issue.*

(Part II.—Of the Survey.—Sec. 13.)

the substance of any objection which he may wish to prefer against the correctness of such maps or papers;

and, if any person so summoned shall fail to attend and to sign the said maps or papers, or to give in a written statement of his objections within the time prescribed, the Collector may proceed finally to confirm the boundaries as represented in such maps and papers, for the purposes of the survey and of this Act:

If agent deposits expenses of making copies, Collector to order them to be prepared.

Provided that, if within the time specified any such duly authorized agent deposits with the Collector the necessary expenses of making copies of the said maps or papers, the Collector shall order such copies to be prepared, and as soon as they are prepared shall cause a notice to that effect to be posted at his office, and the said agent shall be allowed such time as may be specified in such notice, not being less than fifteen days from the posting thereof, for the purpose of signing or of giving in a written statement of objections.

Procedure when objection is stated.

When a written statement of objections has been given in, as in this section provided, the Collector, after holding any further inquiry which he may deem necessary, shall pass such order in respect of such objections as to him shall seem fit; and, if the objections shall seem to him not to be well-founded, shall direct that all expenses of such further inquiry, and all expenses entailed on any other person by such inquiry, shall be recovered from the person who made the objection.

Person making subsequent objection may be required to deposit costs of further inquiry.

13. Whenever any person, having failed to sign the maps and papers, or to give in his objections in writing within the time prescribed by the notification or by the special notice mentioned in the last preceding section, shall, at any time before the Collector has finally confirmed the boundaries for the purposes of the survey, prefer any subsequent objection against the correctness of any maps or papers in respect of which such notification or notice was issued,

the Collector shall require him to deposit the estimated costs of any further inquiry which it may be necessary to make in respect of his objection;

and, if the said person shall fail to deposit such costs within the time specified by the Collector, he shall be deemed for all purposes of this Act to have admitted the correctness of the said maps and papers.

If the costs of any inquiry which may be deemed necessary be deposited, the Collector shall make such further inquiry at the expense of the person so objecting; and, if the objection shall seem to the Collector not to be well-founded, he may pass such order as he shall think fit in respect of the recovery from the objector of any sum expended by the Collector on the inquiry in excess of the sum deposited, and of any necessary

of 1875.]

(Part III.—Of Boundary-marks.—Secs. 14-16.)

expenses incurred by any other persons on account of such inquiry :

Provided that no person so making an objection after the prescribed time shall, under any circumstances, be entitled to recover the expenses which he is required to deposit before any further inquiry is made in respect of such subsequent objection.

PART III.

OF BOUNDARY-MARKS.

14. The Collector may cause to be erected temporary boundary-marks of such materials, and in such number and manner, as he may direct, on any lands to be surveyed under this Act;

Collector may erect temporary boundary marks.

and may require any occupant of land to maintain and keep in repair such marks or any boundary-marks,

until any survey-operation shall be concluded and a final award given as to any disputed boundary, or

until permanent boundary-mark may be erected in lieu thereof as hereinafter provided.

15. The Collector may at any time cause to be erected on any land which is to be, or which has been, surveyed under this Act, permanent boundary-marks of such materials, and in such number and manner, as he may determine to be sufficient to distinguish the boundaries of the estates, tenures, *mauzas* or fields for which the same are to be erected :

Collector may erect permanent boundary-marks.

Provided that, seven days before he proceeds to the erection of any permanent boundary-marks, the Collector shall, for the information of all concerned, cause to be posted in his office, and in the *mal-cutcherry* or at some other convenient place on every estate concerned, a specification of the number and character of the marks which he proposes to erect on the estate and an estimate of their cost.

Specification of marks and estimate of cost to be posted.

16. All expenses incurred by the Collector in erecting temporary or permanent boundary-marks under this Act, shall, in manner hereinafter provided, be apportioned among, and levied from, the *zamindars* and tenure-holders on their estates :

Apportionment of expenses.

Provided that no tenure-holder shall be liable to pay any portion of the expenses incurred by the erection of boundary-marks on an estate, unless some portion of his tenure is situated within fifteen hundred feet of some such boundary-mark.

(Part III.—Of Boundary-marks.—Secs. 17-21.)

Rent-free
lands deemed
part of tenure.

17. All lands held without payment of rent, not being entered on the Collector's register of revenue-free tenures of the district, shall, for the purposes of this Act, be deemed to form a part of the tenure within the local boundaries of which they may be included; and if they be not included within the local boundary of any tenure, then to be a part of the estate within the local boundaries of which they are included, and if they be not included within the local boundaries of any one estate, then to be a part of such conterminous estate as the Collector in whose district such conterminous estate is situated shall, by an order under his seal, appoint:

Provided that no rent-free holding of which the annual value is less than five rupees shall be liable to pay any portion of the expenses of erecting boundary-marks under this Act.

Procedure
when
occupant fails
to maintain
boundary-
mark.

18. If any occupant on whom a requisition has been made under section 14 fails to maintain or keep in repair any temporary boundary-mark, the Collector may maintain, keep in repair or restore any such boundary-mark, and the expenses thereby incurred shall be recovered as provided in section 57 from the person so failing to maintain or keep in repair any such boundary-mark.

Zamindar,
etc., bound to
preserve
boundary-
marks and
give notice
to Collector
when injured.

19. Every zamindar, tenure-holder and farmer of land shall be legally bound to preserve, as far as lies in his power, such of the permanent boundary-marks lawfully erected on his estate, tenure or farm, or on the boundary between his estate, tenure or farm, and any other estate, tenure or farm, as may be assigned to him in that respect entirely, or jointly with other persons, under the provisions of section 29, and shall give immediate notice to the Collector if any such marks are injured, destroyed or removed, or require repairs.

Collector may
re-erect in-
jured bound-
ary-marks and
recover expen-
ses from
zamindar, etc.

20. Whenever it shall come to the notice of the Collector that any permanent boundary-mark erected under the provisions of this Act has been injured, destroyed or removed, or requires repairs, the Collector may cause such boundary-mark to be re-erected, restored or repaired, and may recover any expenses incurred in respect of such re-erection, restoration or repair, in such proportions as he shall think fit, from the zamindars and tenure-holders to whom such boundary-mark may have been assigned in that respect under the provision of section 29: and all such expenses shall be recoverable as provided in section 57.

Collector may
cause bound-
ary-mark to
be erected by
occupant of
land with his
consent.

21. Nothing contained in this Act shall be held to prohibit the Collector from causing any temporary or permanent marks to be erected, maintained or repaired by any occupant of land under the directions of the said Collector, and with the consent of such occupant.

The Collector shall repay to such occupant the expenses incurred in such erection or repair, and such expenses shall be apportioned and recovered as provided in Part IV.

of 1875.)

(Part IV.—Of the Apportionment and Recovery of Expenses.—
Secs. 22-25.)

PART IV.

OF THE APPORTIONMENT AND RECOVERY OF EXPENSES.

22. Upon the completion of the erection of boundary-marks on any tract of land of which the survey may have been ordered, or on any convenient portion thereof, the Collector shall forthwith prepare a statement of all expenses incurred in respect of such boundary-marks.

Collector to prepare statement of expenses in respect of boundary marks.

23. Such statement shall show the total number of marks of each description which have been erected on such tract or portion of such tract, the aggregate cost of erecting all the marks of each description, the names of the estates and *manzas* within, or on the boundaries of, which any marks have been erected, and the total number of marks of each description erected within or on the boundary of each estate.

Contents of statement.

24. Upon the completion of such statement the Collector shall provisionally apportion the aggregate expenses of erecting the marks among the estates specified, with reference to the number of boundary-marks of each description which have been erected within or on the boundary of each estate.

Collector to apportion cost of erecting marks among estates.

25. So soon as the provisional apportionment shall have been made as required by the last preceding section, the Collector shall cause a notice to be served on the *zamindar* of every estate on which the expenses have been apportioned—

Notice to be served.

- (a) specifying the sum which has been apportioned on his estate, and, as far as can be calculated, the sum which he will be required to pay on account of the service of notices on him under this section and section 29;
- (b) informing him that the said statement is open to inspection in the office of the Collector;
- (c) calling on him to appear in person, or by agent properly authorized, at the office of the Collector on a date to be specified in the notice (not being less than two months after the issue of the notice), on which date the Collector will proceed to consider any objections which may be made to the provisional apportionment of expenses;
- (d) warning him that if he does not appear on the date fixed in pursuance of the notice, he will be deemed to have waived all objections to the share of the expenses apportioned to his estate;
and (unless as otherwise hereinafter provided in sections 31, 32 and 33);
- (e) informing him that, under this Act, he is entitled to recover a portion of the amount which shall be

(Part IV.—Of the Apportionment and Recovery of Expenses.—
Sec. 26-28.)

finally made payable in respect of his estate under section 26, from such tenure-holders on his estate as are made liable to bear a portion of such expenses by sections 16 and 17 (of which sections a copy shall be annexed to the notice); and that in order to enable the Collector to apportion the said amount among the said tenure-holders, he may give in a list of all such tenures, as defined in this Act, held directly from him, with a specification of the number of boundary-marks of each description which are erected within or on the boundary of each tenure;

(f) and warning him that if he fails to give in a list of tenures as aforesaid on or before the said date, he will be deemed to have given up all claim to recover from the tenure-holders any part of the amount for which he may be held liable under section 26.

Collector to
make final
apportion-
ment.

26. On the date fixed in such notice the Collector shall proceed to consider all objections which may be made to the provisional apportionment, and to make such final apportionment of the expenses as shall seem to him fit.

In making such final apportionment the costs of serving all notices under section 25 shall be distributed rateably among the estates concerned, in proportion to the share of the expenses of erecting boundary-marks which may be apportioned to each estate; and the amount so finally apportioned as payable in respect of each estate, together with the costs of serving notices, rateably distributed as aforesaid, shall be due to the Collector from the *zamindars* of such estates.

Collector may
postpone final
apportion-
ment.

27. Notwithstanding anything contained in the last preceding section, the Collector may postpone the final apportionment if it shall appear to him that a notice under section 25 has not been served on the *zamindar* of any estate which should be made liable for a portion of the expenses, or for any other sufficient reason.

Zamindar fail-
ing to appear
deemed to
have waived
objections.

28. Any *zamindar* failing to appear on the date fixed in the notice served on him under section 25 will be deemed to have waived all objections to the payment of the amount apportioned to his estate, and will not be entitled to prefer any objections thereto on any subsequent date; and any *zamindar* failing to give in a list of tenures (when called upon under section 25 to give in such list), on or before such date, will be deemed to have given up all claim to recover from the tenure-holders any part of the amount which may have been apportioned as payable in respect of his estate under section 26.

of 1875.]

(Part IV.—Of the Apportionment and Recovery of Expenses.—Secs. 29-31.)

29. So soon as the expenses shall have been finally apportioned under section 26 among the estates concerned as hereinbefore provided, the Collector shall issue a notice in respect of every estate, specifying the amount finally apportioned as payable in respect of the estate, and requiring the *zamindar* to pay such amount to the Collector, together with the costs of serving such notice, within one month of the issue of the notice.

Collector to
issue notice
specifying
amount fin-
ally apportioned

If such amount be not paid to the Collector within such period, the same, with interest, at such rate, not exceeding six *per centum per annum*, as the Lieutenant-Governor¹ may from time to time determine, may be levied as provided in section 57.

The notice issued under this section shall assign to the *zamindar*, or to the *zamindar* jointly with tenure-holders, the boundary-marks which they are legally bound to preserve under the provisions of section 19, and in respect of which they will be held liable to pay the costs of re-erection, maintenance and repair, under the provisions of section 20.

Notice shall
assign boundary-
marks which
zamindars are
bound to preserve.

30. If the *zamindar* of any estate shall give in a list of tenures, as referred to in section 25, with an application to the Collector to apportion between his estate and the tenures the amount which has been apportioned as payable in respect of his estate as aforesaid, the Collector shall proceed to make a provisional apportionment of the said amount between the *zamindar* and the tenure-holders, to serve notices on the said tenure-holders in the manner provided in section 25, and to make a final apportionment among the said *zamindar* and tenure-holders in the manner provided in sections 26 and 27; and the provisions of section 28 shall be applicable to such tenure-holders:

Collector to
apportion
between
zamindar and
tenure-
holders.

Provided that no separate notice shall be served under this section in respect of the provisional or final apportionment of the sum payable in respect of any tenure, if such sum be less than two rupees; but in respect of all such sums it shall be sufficient to publish a list showing the sums apportioned as payable.

No separate
notice in re-
spect of ap-
portionment
of sum less
than two
rupees.

Such list shall be published by being posted at the office of the sub-divisional officer and at a conspicuous place in some village within which lands appertaining to the tenure are situate.

31. Notwithstanding anything in this Part contained, whenever the Collector may consider that he has sufficient information (whether derived from papers compiled for the purposes of the road-cess, from inquiries made in the course of

Summary
apportionment
between
zamindar and
tenure-
holders.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (7 of 1913), s. 5, Sch. D, items 1 and 2, in Vol. I of this Code.

(Part IV.—Of the Apportionment and Recovery of Expenses.—
Sec. 32, 33.)

proceedings under this Act, or otherwise) to enable him in a summary way to make an apportionment of any expenses recoverable under this Act in respect of any estate, between the *zamindars* of, and the holders of, tenures in such estate, the Collector may, as soon as possible after he shall have made a provisional apportionment under section 24 of the sum payable in respect of such estate, and without calling on the *zamindar* to give in any list of tenures as provided in clause (e) of section 25, proceed to make a provisional apportionment between the *zamindars* and the tenure-holders of such estates of the sum which has been provisionally apportioned under section 24 as payable in respect of the estate.

Notice to
zamindar
when provi-
sional appor-
tionment
made summar-
ily.

32. Whenever any provisional apportionment of the sum payable between the *zamindars* and the tenure-holders may have been made summarily, as provided in the last preceding section,

the notice to be served on the *zamindar* under section 25 shall inform the *zamindar*, in addition to the particulars specified in clauses (a), (b), (c) and (d) of the said section, and instead of those specified in clauses (e) and (f),

that under this Act he is entitled to recover a portion of the amount which shall be finally apportioned as payable in respect of his estate under section 26 from the tenure-holders on his estate; and

that the Collector has made a provisional apportionment of the said sum between the *zamindar* and tenure-holders according to a list which shall be annexed to the said notice;

and shall warn him—

that if he fails to prefer any objection to such provisional apportionment on or before the date specified, he will be deemed to have given up all right to prefer any such objection at any future time; and

that the Collector will proceed to make such apportionment final, or to make any modifications in it which he may think fit:

Provided that the sum finally made payable by the *zamindar* shall not exceed the sum apportioned upon him in the said provisional apportionment between the *zamindars* and the tenure-holders.

Provision on
provisional
apportion-
ment.

33. As soon as a provisional apportionment between the *zamindar* and the tenure-holders shall have been made summarily as provided in section 31, the Collector shall proceed to serve notices on the tenure-holders concerned in the manner provided in section 30, and to do all other things as if the said provisional apportionment upon tenure-holders had been made on a list given in by the *zamindar* under section 30.

[1875.]

(Part IV.—Of the Apportionment and Recovery of Expenses.—
Secs. 34-37.)

34. In apportioning the amount among the *zamindar* and the tenure-holders the Collector shall first deduct such sum as he shall consider to be fairly payable by the *zamindar* in respect of lands not included in any tenure, and in respect of his interest in lands which are included in tenures; and in apportioning the remainder among the tenures he shall take into consideration the number of pillars erected within or on the boundary of each tenure, the extent of each tenure, and the distance at which it is situated from the boundary-marks; but no tenure shall be made liable for any portion of the sum so apportioned, unless some part of it be situated within fifteen hundred feet from some boundary-mark.

Mode of
apportionment
among
tenures.

35. So soon as the final apportionment among tenure-holders under section 30 shall be completed, the Collector shall cause to be issued notices to each of the said tenure-holders stating the amount payable in respect of each of their tenures, with interest (if any) calculated at the annual rate of six *per centum* from the date on which the *zamindar* paid to the Collector the sum which was apportioned on his estate under section 26, and the cost of serving upon the tenure-holder the notice under this section and calling upon him to pay the total amount so due to the *zamindar* of the estate of which the tenure is a part, within one month of the date of the notice:

Notice of
apportionment
in respect of
tenures.

Provided that no separate notice shall be served under this section on any tenure-holder who is required to pay a sum of less than two rupees as his share of the expenses apportioned under this Act; but in respect of such sums it shall be sufficient to publish a list in the manner prescribed by section 30, and no costs incurred in respect of the publication of any such list shall be recoverable from any person mentioned therein as liable to pay less than two rupees.

No separate
notice to
tenure-holders
required to
pay less than
two rupees

36. Notwithstanding anything contained in section 35, the Collector shall not issue the notices therein mentioned to the tenure-holders until the *zamindars* concerned shall have deposited with the Collector the full amount of the costs of serving all the notices, and of publishing the lists as required by that section.

Collector
to issue
notices to
tenure-holders
until *zamindars*
have deposited
costs.

37. The provisions of sections 25, 26, 27, 28, 29, 30, 34 and 35 shall be applicable, as far as possible, to every case in which any tenure-holder who has been made liable for the payment of any share of expenses under this Act may apply to the Collector to apportion the amount for which he has been made liable between himself and the holders of subordinate tenures direct from himself;

Apportionment
between
tenure-holders
and holders of
subordinate
tenures.

and the provisions of sections 31, 32 and 33, regarding the procedure for making a provisional apportionment in a

[Ben. Act 5.]

(Part IV.—Of the Apportionment and Recovery of Expenses.—
Part V.—Boundary-disputes.—Secs. 38-43.)

summary way between a *zamindar* and the tenure-holders on his estate, shall be applicable, as far as possible, to the provisional apportionment of expenses between the holder of a tenure and the holders of under-tenures within his tenure:

Provided always that no such apportionment shall be made in respect of *raiyyats* who have a right of occupancy only, and whose rent is not fixed in perpetuity.

Recovery of
sums payable
to *zamindar*
or tenure-
holder.

38. Every *zamindar* or tenure-holder to whom any sum is payable under the preceding sections may recover the same with interest as aforesaid in the manner provided by any law for the time being in force for the recovery of arrear of rent in respect of the tenure for which the sum is due.

Recovery of
sums expended
by Govern-
ment.

39. The provisions of this Part shall apply to all sums expended by the Government since the first day of November 1874, in erecting boundary-marks.

PART V.

BOUNDARY-DISPUTES.

Procedure in
case of dis-
putes as to
boundary.

40. If it shall come to the notice of the Collector in the course of a survey under this Act, that a dispute exists as to any boundary which should be surveyed, the Collector, after holding such inquiry as he may deem necessary, may determine such boundary as hereinafter provided.

Mode of
determining
boundary.

41. The Collector shall determine the boundary according to actual possession, and cause it to be secured by boundary-marks;

Force of
Collector's
order.

and the order of the Collector under this section shall, until it be reversed or modified by competent authority, have the force of an order of any Civil Court declaring the parties to be in possession of the land in accordance with the boundary as determined by the Collector.

Power of
Collector to
take posses-
sion of land
in dispute.

42. If, after holding the necessary inquiry, the Collector is unable to discover which party was in possession of the disputed land when he instituted the inquiry under this section, the Collector may take possession of the land in dispute, and retain possession thereof until some party shall have established his right to the said land.

Power to
refer to
arbitration.

43. Whenever the Collector thinks it necessary to decide a dispute as to any boundary under the last preceding section, he may, with the consent of the parties concerned, refer the same to arbitration.

of 1875.]

(Part V.—Boundary disputes.—Secs. 44, 45.)

The procedure laid down in Chapter VI of Act 8 of 1859¹ (*the Code of Civil Procedure*) shall, so far as may be practicable, be applicable to disputes so referred to arbitration.

44. If the boundary regarding which the dispute exists as mentioned in section 40 shall at any previous time have been determined by any Court of competent jurisdiction, or shall have been laid down and shown on a map in the course of any previous revenue-survey or settlement, and no objection to the boundary as then laid down and mapped shall have been preferred before any authority competent to decide on such objection;

Relaying boundary previously determined by Court or by revenue-survey.

whenever the dispute relates to the boundary of an estate which is liable for revenue, or to any other boundary by which the interests of the Government may be affected, the Collector shall,

and whenever the dispute relates to any other boundary, the Collector may, if he thinks fit,

relay, as nearly as may be possible, the boundary as previously determined or laid down and shown on the map, and cause such boundary to be shown on the survey-map, with an explanatory note to the same:

Provided that the relaying and record of a boundary by the Collector under this section shall not affect the possession of any land by any party, and shall be in addition to the determination and record of the boundary according to actual possession required by section 41.

Nothing contained in this section shall be held to prohibit the Collector from deviating from a boundary as held by actual possession or as shown on a former map, and laying down a new boundary, if all the parties concerned agree to such new boundary, on the ground that the boundary held by actual possession, or as shown on the former map, was incorrect, and if it appears to the Collector that there is no objection to the adoption of such new boundary.

Collector may deviate from boundary if parties agree.

The reason for every such deviation shall be recorded in the Collector's proceedings.

45. If it shall come to the notice of the Collector at any time, or in any manner, that a doubt or dispute exists in respect to any boundary—

- (a) which has at any time been determined by a competent Court; or
- (b) which has been laid down and shown on a map, in the course of a previous revenue-survey or settlement, or other proceeding of a revenue-officer for any special purpose, and against which no objection has

Power of Collector in case of doubt or dispute as to boundary determined by Court or laid down by revenue-survey.

¹ Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1882. The latter Act has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to s. 89 of, and Sch. II to, the latter Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Part V.—Boundary-disputes.—Part VI.—Miscellaneous.—Secs. 46-48.)

been preferred to any authority competent to decide upon such objection; or

(c) which has been laid down by survey under this Act,—the Collector may, if he thinks it desirable for any reason that the boundary so determined or laid down shall be relaid, proceed to relay the boundary in the manner prescribed in section 44 of this Act.

and for the purpose of so relaying the boundary he may make any inquiries and surveys which may be necessary, and such inquiries and surveys shall be deemed to be proceedings under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries and surveys under that section.

In certain cases Collector may cause marks to be erected.

46. Whenever the Collector shall have determined a boundary which was in dispute, and the order shall have become final,

and whenever a boundary which has been supplied by the survey officers, or has been determined under this Act, has been altered by a decree of any Civil Court which has become final,

and whenever it shall come to the notice of the Collector that any boundary has been determined by a competent Court or authority,

the Collector may cause such marks as he may think fit to be erected in order to secure the boundary permanently, and the provisions of Parts III and IV shall, so far as is possible, be applicable to boundary-marks which are erected under this section and to the apportionment of the cost thereof.

PART VI.

MISCELLANEOUS.

Joint zamindars subject to every liability imposed on single zamindars.

47. Whenever any estate or tenure is held jointly by two or more *zamindars* or tenure-holders, all such *zamindars* and tenure-holders shall be jointly and severally liable in respect of every liability imposed on *zamindars* or tenure-holder respectively by this Act,

and any shareholder in any estate or tenure who may have paid the amount finally apportioned to such estate or tenure may recover from his co-sharers such sums as may be payable in respect of their shares as arrears of rent, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Service of notice.

48. Every notice in and by this Act required to be served on any person may be served—

(1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the

of 1875.]

(Part VI.—Miscellaneous.—Secs. 49-51.)

same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to a general agent of the person to whom such notice is directed; or

- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode, or to the place where he may be known to reside; or
- (3) by posting a copy of the notice at any *mdl-cutcherry* of the estate or tenure of the person to whom the notice is directed; or if no such *mdl-cutcherry* be found, on some conspicuous place on the said estate or tenure to which such notice relates, and by delivering, in the case of estates paying their annual revenue by four instalments, another copy thereof to any agent who shall have paid an instalment of revenue next after the preparation of such notice.

In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

49. No proceedings under this Act shall be affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, or by reason of any other informality, provided the directions of this Act be in substance and effect complied with; and no proceedings under this Act shall be affected by reason of the omission to serve any notice on any *zamindar* whose name is not recorded on the Collector's registers as owner of the estate in respect of which the notice is required to be served.

No proceedings under Act affected by mistake or misdescription.

50. For the purpose of any inquiry under this Act the Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means (as far as may be), and in the same manner, as is provided in the case of a Court under the Code of Civil Procedure¹.

Power of Collector to enforce attendance of witnesses.

51. If any person shall fail to comply with a requisition contained in any special notice served under section 7 of this Act, or in any notice served for the purpose of any inquiry under Part V of this Act, within the time specified in such notice, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees, and such fine shall be payable daily until the requisition is complied with; and the

Daily fine for failure to comply with requisition in notice.

¹ Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1882. This latter Act has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to the latter Code—see s. 158 thereof, in General Acts, 1904-08, Ed. 1909, p. 284.

(Part VI.—Miscellaneous.—Secs. 52-57.)

Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

Penalty for not giving notice of injury to boundary-mark.

52. Any person, being bound by the provisions of section 19 to give notice to the Collector in respect of any boundary-mark having been injured, destroyed or removed, or requiring repairs, who shall fail to give such notice, shall be liable to a fine not exceeding one hundred rupees, to be imposed by order of the Collector.

Penalty for removing boundary-marks.

53. Any person convicted before a Collector of wilfully erasing, removing or damaging any boundary-mark (not being a land-mark fixed by the authority of a public servant within the meaning of section 434 of the Indian Penal Code¹) which has been lawfully erected, may be ordered by the convicting officer to pay such sum, not exceeding two hundred rupees, for each mark so erased, removed or damaged, as the said officer may think fit, in addition to such sum as may be necessary to defray the expense of restoring the boundary-mark so erased, removed or damaged.

Collector may award portion of fine to informer.

54. The Collector may award any portion of a fine imposed under either of the two last preceding sections, and which may be realized, to any person who may have given information leading to the imposition of the fine.

Levy of fine.

55. A fine under sections 51, 52 and 53 may be levied, as far as may be practicable, in the manner provided in section 307 of the Code of Criminal Procedure²; but if no moveable property belonging to the person from whom the fine is due is found in the district within which the order was passed, then such fine may be levied as if it were an arrear of revenue.

When person removing boundary-mark cannot be found, Collector may repair.

56. Whenever the person erasing, removing or damaging any boundary-mark cannot be discovered, or if for any other reason it is found impracticable to recover from him the sum which he has been so ordered to pay, the boundary-mark shall be restored or repaired by the Collector, and the expenses thereby incurred shall be recovered from the occupants, of such of the conterminous lands and in such proportions, as to the Collector may seem fit.

Every amount due deemed a demand.

57. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses

¹ Printed in General Acts, 1854-57, Ed. 1908, p. 354.

² Act 10 of 1872 was repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898); and this reference should now be taken to be made to ss. 386, 387 and 389 of the latter Act—see s. 8 thereof, in General Acts, 1898-1908, Ed. 1909, p. 40.

of 1875.]

(Part V.—Miscellaneous.—Secs. 58-60.)

incurred or of any notices served, or of any costs payable by any party in an appeal, shall be deemed to be a demand¹.

58. Except as provided in sections 59 and 60, no appeal shall lie as of right, against any order passed under this Act by any officer; but

Appeal
against
orders.

the proceedings and orders of Assistant Superintendents and of Deputy Collectors under this Act shall be subject to the supervision and control of the Superintendent of Survey or Collector;

Supervision of
proceedings.

the proceedings and orders of the Superintendent of Survey and of the Collector, to the supervision and control of the Commissioner of the Division; and

the proceedings and orders of all officers, to the supervision and control of the Board of Revenue²:

Provided that the Government may order that, in the course of any survey under this Act, the functions of the Commissioner shall be restricted to the decision of appeals under section 60, and that the general powers of control and supervision over the Superintendent of Survey or Collector and their subordinate officers may be exercised by the Board of Revenue³ direct.

Government
may restrict
functions of
Commissioner

59. An appeal, if presented within one month of the date of the order appealed against, shall lie to the Collector or Superintendent of Survey against every order of a Deputy Collector or of an Assistant Superintendent—

Appeal
against certain
orders of
Assistant
Superinten-
dent or
Deputy
Collector.

- (a) determining under section 8 the amount to be paid as the price of materials or labour supplied;
- (b) determining under section 10 the amount to be paid as compensation;
- (c) deciding a boundary-dispute;
- (d) imposing a fine under this Act.

60. An appeal if presented within one month of the date of the order appealed against, shall lie to the Commissioner of the Division against every order of the Collector or Superintendent of Survey—

Appeal
against cer-
tain orders of
Collector or
Superinten-
dent of Survey

- (a) determining under section 8 the amount to be paid as value of materials or labour supplied;
- (b) determining under section 10 the amount to be paid as compensation;
- (c) determining a disputed boundary;
- (d) imposing a fine of more than fifty rupees on any person:

¹ The words and figures "under section 2 of Bengal Act 7 of 1880 (an Act to make further provision for the recovery of arrears of land-revenue and public demands recoverable as arrears of land-revenue), and shall be leviable as such", which were repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), are omitted. As to the recovery of "demands," see now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1918), s. 3 (d) and Sch. I, in Vol. III of this Code.

² As to the application of s. 57 of the present Act, see also s. 30, ante.

³ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

(Part V.—Miscellaneous.—Secs. 61-63.)

Provided that the order appealed against under clauses (a), (b) and (c) shall not have been passed by the Collector or Superintendent of Survey on an appeal preferred against the order of a subordinate officer.

Orders as to costs on appeal.

No suit to be brought unless appeal first preferred.

Board of Revenue may lay down rules with sanction of Lieutenant-Governor.

61. The Commissioner, Collector or Superintendent of Survey may pass such orders as they shall think fit in respect of the payment of costs incurred by any party in an appeal.

62. No suit shall be brought to set aside an order of a Superintendent of Survey, Collector, Assistant Superintendent or Deputy Collector deciding a boundary-dispute, unless an appeal shall have been first preferred under section 59 or section 60, or unless the person suing was at the time when such order was passed a minor, or insane or an idiot.

63. With the sanction of the Lieutenant-Governor¹ the Board of Revenue² may lay down rules, not being inconsistent with this Act,—

to provide for the preparation of maps and registers, and for the collection and record of any information in respect of any land to be surveyed under this Act;

and generally to provide for the proper performance of all things to be done, and for the regulation of all proceedings to be taken, under this Act.

All inquiries ordered to be made for the collection of information under such rules shall be deemed to be inquiries under section 6, and the Collector shall exercise in respect thereof all powers which he may exercise in respect of inquiries under that section.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

BENGAL ACT 1 OF 1876

(THE BENGAL MUHAMMADAN MARRIAGES AND DIVORCES REGISTRATION
ACT, 1876).

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BENGAL ACT 1 OF 1876

(THE BENGAL MUHAMMADAN MARRIAGES AND DIVORCES
REGISTRATION ACT, 1876).¹

(19th January, 1876.)

**An Act to provide for the voluntary registration of Muham-
madan Marriages and Divorces.**

Whereas it is expedient to provide for the voluntary registration of marriages and divorces among Muhammadans; It is enacted as follows:—

1. This Act shall commence and take effect in those districts in the provinces subject to the Lieutenant-Governor of Bengal² to which the said Lieutenant-Governor³ shall extend it by an order⁴ published in the Calcutta Gazette; and thereupon this Act shall commence and take effect in the districts named in such order, on the day which shall be in such order provided for the commencement thereof.

2. In this Act, unless there be something repugnant in the subject or context,—

“Muhammadan Registrar” means any person who is duly authorized under this Act to register marriages and divorces;

“Inspector-General of Registration” and “Registrar” respectively mean the officers so designated and appointed under the Indian Registration Act, 1871,⁵ or other law for the time being in force for the registration of documents;

“district” means a district formed under the provisions of the Indian Registration Act, 1871;⁶

“*parda-nashin*” means a woman who, according to the custom of the country, might reasonably object to appear in a public office.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1875, Pt. IV, p. 1626; and for Proceedings in Council, see *ibid*, 1875, Supplement, p. 1586; *ibid*, 1875, Supplement, pp. 1, 55, 119, 175, 407, 487 and 1868.

LOCAL EXTENT.—This Act extends only to districts notified under s. 1. For a list of districts so notified, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

RULES.—For rules made under this Act, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ For a list of orders made under section 1 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ Act 8 of 1871 was repealed and re-enacted by Act 8 of 1877, which again has been repealed and re-enacted by the Indian Registration Act, 1908 (16 of 1908), and this reference should now be construed as a reference to the latter Act (in General Acts, 1904-1909, Ed. 1909, p. 660)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1900, p. 678.

(Secs. 3-8.)

Lieutenant-Governor may grant licenses to register.

3. It shall be lawful for the Lieutenant-Governor¹ to grant a license to any person, being a Muhammadan, authorizing him to register Muhammadan marriages and divorces which have been effected within certain specified limits, on application being made to him for such registration; and in like manner it shall be lawful for the said Lieutenant-Governor¹ to revoke or suspend such license:

Provided that no more than two persons shall be licensed to exercise the said functions within the same limits: and provided further that, when two persons are so licensed to act within the same limits, the one shall be a member of the *Sunni*, and the other of the *Shia*, sect.

Muhammadan Registrars to use seals.

4. Every Muhammadan Registrar shall use a seal bearing the following inscription in the Persian character and language: "The seal of the Muhammadan Registrar of . . ."

Government to provide seal and books.

5. The Lieutenant-Governor¹ shall supply for the office of every Muhammadan Registrar the seal and the books necessary for the purposes of this Act.

The pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title-page by the officer by whom such books are issued.

Muhammadan Registrar to keep registers.

6. Every Muhammadan Registrar shall keep up the following register-books:—

Book I.—Register of marriages, in the Form A contained in the Schedule to this Act.

Book II.—Register of divorces other than those of the kind known as *Khula*, in the Form B contained in the Schedule to this Act.

Book III.—Register of divorces of the kind known as *Khula*, in the Form C contained in the Schedule to this Act.

Entries to be numbered.

7. All entries in each register prescribed by the last preceding section shall be numbered in a consecutive series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year.

Applications, by whom to be made.

8. Every application for registration under this Act shall be made to the Muhammadan Registrar orally as follows:—

if the application be for the registration of a marriage—

by the parties to the marriage jointly: provided that if the man, or the woman, or both, be minors, application shall be made on their behalf by their respective lawful guardians: and provided further that, if the woman be a *parda-nashin*, such application may be made on her behalf by her duly authorized *vakil*.

if the application be for registration of a divorce other than of the kind known as Khula—

by the man who has effected the divorce;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code..

of 1876.]

(Secs. 9-11.)

if the application be for the registration of a divorce of the kind known as Khula—

by the parties to the divorce jointly: provided that, if the woman be a *parda-nashin*, such application may be made on her behalf by her duly authorized *rakil*.

9. On application being made to a Muhammadan Registrar for registration under this Act of a marriage or divorce within one month of the marriage or divorce being effected, and not otherwise, and on payment to him of a fee of one rupee, the Muhammadan Registrar shall—

Duties of Muhammadan Registrar on application.

- (a) satisfy himself whether or not such marriage or divorce was effected by the person or persons by whom it is represented to have been effected;
- (b) satisfy himself as to the identity of the persons appearing before him and alleging that the marriage or divorce has been effected;
- (c) in the case of any person appearing as representative of the man or woman (whether he appear as guardian or *rakil*), satisfy himself of the right of such person to appear.

If the Muhammadan Registrar be satisfied on the above points, and not otherwise, he shall make an entry of the marriage or divorce in the proper register:

Provided that no such entry shall be made otherwise than in the presence of every person who, by section 11 of this Act, is required to sign such entry.

10. Nothing in the preceding section shall be held to prohibit a Muhammadan Registrar from receiving a gratuity in excess of the prescribed fee of one rupee, when such gratuity is voluntarily tendered.

Muhammadan Registrar may receive gratuity.

11. Every entry in a register kept under this Act shall be signed as follows:—

Entries by whom to be signed.

if the entry be of a marriage in a register in the Form A contained in the Schedule to this Act.—

- (1) by the parties to the marriage, or, if either or both of them be minors, by their lawful guardians respectively: provided that, if the woman be a *parda-nashin*, the entry may be signed on her behalf by her duly authorized *rakil*.
- (2) by two witnesses who were present at the marriage-ceremony;
- (3) in cases in which the woman is represented by a *rakil*—by two witnesses to the fact of the *rakil* having been duly authorized to represent her;
- (4) by the Muhammadan Registrar;

(Secs. 12-15.)

if the entry be of a divorce other than the kind known as Khula in a register in the Form B contained in the Schedule to this Act.—

- (1) by the man who has effected the divorce;
- (2) by the witness who identifies the man who has effected the divorce;
- (3) if the man be of the *Shia* sect—by two witnesses to the divorce being effected;
- (4) by the Muhammadan Registrar;

if the entry be of a divorce of the kind known as Khula in a register in the Form C contained in the Schedule to this Act,—

- (1) by the parties to the *Khula*: provided that, if the woman be a *parda-nashin*, the entry may be signed on her behalf by her duly authorized *wakil*;
- (2) by the person who identifies the man;
- (3) by the person who identifies the woman;
- (4) if the application for registration has been made by a *wakil* on behalf of the woman—by two witnesses to the fact of the *wakil* having been duly authorized to represent her;
- (5) if the man be of the *Shia* sect—by two witnesses to the divorce being effected;
- (6) by the Muhammadan Registrar.

Copies of
entry to be
given to
parties.

12. On completion of the registration of any marriage or divorce, the Muhammadan Registrar shall deliver to each of the applicants for registration an attested copy of the entry; and for such copy no charge shall be made.

Index to be
kept.

13. In every office in which any register hereinbefore mentioned is kept, there shall be prepared a current index of the contents of such register; and every entry in such index shall be made, so far as practicable, immediately after the Muhammadan Registrar has made an entry in any such register.

Particulars to
be shown
in index.

14. The index mentioned in the last preceding section shall contain the name, place of residence and father's name of each party to every marriage or divorce, and the date of registration.

It shall also contain such other particulars, and shall be prepared in such form, as the Lieutenant-Governor¹ may direct.

... be
inspected and
copies of
entries in
registers
taken.

15. Subject to the previous payment of the fees prescribed, the index, whether it be in the office of the Muhammadan Registrar or of the Registrar of the district, and the copies of entries in such index, which are filed in the office of the Registrar of the district under the provisions of section 22 of

¹ No. 4 the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, items 1 and 2, in Vol. I of this Code.

of 1876.]

(Secs. 16-21.)

this Act, shall be at all times open to inspection by any person applying to inspect the same; and copies of entries in any of the registers, and of the certified copies of such entries, which are filed in the office of the Registrar of the district under section 22 of this Act, shall be given to all persons applying for such copies.

Such copies shall be signed and sealed by the Registrar of the district or by the Muhammadan Registrar, as the case may be.

16. Every Registrar of a district and every Muhammadan Registrar shall, for the purposes of this Act, be entitled to levy the following fees:—

for every search or permission to search in any index or register under his charge—four annas:

for every certified copy of any entry in a register other than the first copy referred to in section 12 of this Act—one rupee.

17. Every Muhammadan Registrar shall perform the duties of his office under the superintendence and control of the Registrar in whose district the office of such Muhammadan Registrar is situate.

In the town of Calcutta every Muhammadan Registrar shall perform the duties of his office under the superintendence and control of the Inspector-General of Registration.

Every Registrar, and in the town of Calcutta the Inspector-General of Registration, shall have authority to issue (whether on complaint or otherwise) any order consistent with this Act which he considers necessary in respect of any act or omission of any Muhammadan Registrar subordinate to him.

18. The Inspector-General of Registration shall exercise a general superintendence over officers of all Muhammadan Registrars, and shall have power from time to time to frame rules¹ consistent with this Act, for the guidance of the said Muhammadan Registrars and the regulation of their offices generally.

19. All rules framed in accordance with the last preceding section shall be submitted to the Lieutenant-Governor² for approval, and after they have been approved they shall be published in the official Gazette, and shall then have the same force as if they were inserted in this Act.

20. Every Muhammadan Registrar refusing to register a marriage or divorce shall make an order of refusal, and record his reasons for such order in a book to be kept for that purpose.

21. An appeal shall lie against an order of a Muhammadan Registrar refusing to register a marriage or divorce, to the Registrar to whom such Muhammadan Registrar is subordinate, if presented to such Registrar within 20 days from the date of

Fees for searches and copies.

Muhammadan Registrar to be subject to control of District Registrar

Inspector-General of Registration to exercise general superintendence.

Rules to be approved by Lieutenant-Governor and published in Gazette.

Refusal to register to be recorded.

Appeal against refusal to register.

¹ For rules made under sections 18 and 24, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Oudh Laws and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

(Secs. 22-26.)

the order, and the Registrar may reverse or alter such order; and the order passed by the Registrar on appeal shall be final.

Copies of
entries to be
sent monthly
to Registrar
of district.

22. Every Muhammadan Registrar shall, at the expiration of every month send certified copies of all entries made by him during the month in the registers mentioned in section 6 of this Act, and also of the entries which have been made in the index referred to in sections 13 and 14 of this Act, to the Registrar of the district within which such Muhammadan Registrar has been authorized to act, and the Registrar, on receiving such copies, shall file them in his office.

Registers to
be given up.

23. Every Muhammadan Registrar shall keep safely each register until the same shall be filled, and shall then or earlier if he shall leave the district or cease to hold a license, make over the same to the Registrar of the district for safe custody, or to such other person as the Registrar may direct.

Lieutenant-
Governor
may prescribe
rules.

24. The Lieutenant-Governor¹ may from time to time prescribe such rules² as he thinks fit, provided that such rules be not inconsistent with any provision of this Act,—

- (a) for determining the qualifications to be required from persons to whom licenses under section 3 of this Act may be granted;
- (b) for regulating the attendance of Muhammadan Registrars at the celebration of marriages, and their remuneration for such attendance;
- (c) for regulating the grant of copies by Registrars and Muhammadan Registrars;
- (d) for regulating the payment by the Muhammadan Registrars of the cost of the seals, forms of registers, stationery and any other articles which may be supplied to them by the Government;
- (e) for regulating the application of the fees levied by Registrars of districts and Muhammadan Registrars under this Act; and
- (f) for regulating such other matters as appear to the Lieutenant-Governor¹ necessary to effect the purposes of this Act.

The Lieutenant-Governor¹ may from time to time cancel or alter any such rules.

Muhammadan
Registrar a
public officer.

25. Every Muhammadan Registrar shall be, and be deemed to be, a public officer, and his duties under this Act shall be deemed to be public duties.

Saving clause.

26. Nothing in this Act contained shall be construed to—

- (a) render invalid, merely by reason of its not having been registered, any Muhammadan marriage or divorce which would otherwise be valid;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² For rules under sections 18 and 24, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1876.]

(Schedule.)

- (b) render valid, by reason of its having been registered any Muhammadan marriage or divorce which would otherwise be invalid;
- (c) authorize the attendance of any Muhammadan Registrar at the celebration of a marriage, except at the request of all the parties concerned;
- (d) affect the religion or religious rites and usages of any of His Majesty's subjects in India;
- (e) prevent any person, who is unable to write, from putting his mark instead of the signature required by this Act.

SCHEDULE.

(See sections 6 and 11.)

FORM A. BOOK I.

Register of Marriages (as prescribed by section 6 of the Act for the voluntary registration of Muhammadan marriages and Divorces).

1. Consecutive number.
2. Name of the bridegroom and that of his father, with their respective residences.
3. Name of the bride and that of her father, with their respective residences.
4. Whether the bride is a spinster, a widow or divorced by a former husband, and whether she is adult or otherwise.
5. * Name of the guardian of the bridegroom (if the bridegroom be a minor) and that of the guardian's father, with specification of the guardian's residence, and of the relationship in which he stands to the bridegroom.
6. * Name of the guardian of the bride (if she be a minor) and that of his father, with specification of his residence, and the relationship in which he stands to the bride.
7. † Name of the bride's *vakil* and of his father, and their residences, with specification of the relationship in which the *vakil* stands to the bride.
8. † Names of the witnesses to the due authorization of the bride's *vakil*, with names of their fathers and residences, and specification of the relationship in which they stand to the bride.

* These columns will be blank if the bride and bridegroom, respectively, are not represented by guardians.

† These columns will be blank when the bride is not represented by a *vakil*.

(Schedule.)

9. Date on which the marriage was contracted,—to be given according to the English style and according to the era current in the district.

10. Amount of dower.

11. How much of the dower is *mu'ajjal* (prompt) and how much *nu'wajjal* (deferred).

12. Whether any portion of the dower was paid at the moment. If so, how much.

13. Whether any property was given in lieu of the whole or any portion of the dower, with specification of the same.

14. Special conditions, if any.

15. Names of village or town, police-jurisdiction and district in which the marriage took place.

16. Name of the person in whose house the marriage-ceremony took place, and that of his father.

17. Date of registration.—to be given according to the English style.

FORM B. BOOK II.

Register of Divorces, other than those of the kind known as Khula (prescribed by section 6 of the Act for the voluntary registration of Muhammadan Marriages and Divorces).

1. Consecutive number.

2. Names of the husband and of his father, and their residences.

3. Names of the wife and of her father, and their residences.

4. Date of divorce—according to the English style and according to the era current in the district.

5. Description of divorce.

6. Manner in which the divorce was effected.

7. Names of the village or town, police-jurisdiction and district in which the divorce took place.

8. Name of the party in whose house the divorce took place, and of his father.

9. Names of witnesses to the divorce, if any, the names of their fathers, and their respective residences.

10. Name of party identifying the husband before the Muhammadan Registrar and that of his father, and their residences.

11. Date of registration.—to be given according to the English style.

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(Schedule.)

FORM C. BOOK III.

Register of Divorces of the kind known as Khula (prescribed by section 6 of the Act for the voluntary registration of Muhammadan Marriages and Divorces).

1. Consecutive number.
2. Name of the husband and that of his father, and their residences.
3. Name of the wife and that of her father, and their residences.
4. Date of *Khula*—according to the English style and according to the era current in the district.
5. Amount of dower.
6. Whether *Khula* was acknowledged by the wife in person before the Muhammadan Registrar.
7. If so, name of the party identifying her before the Muhammadan Registrar, and that of his father, and their residences, with specification of the relationship which he bears to her, if any.
8. * If the *Khula* be acknowledged before the Muhammadan Registrar by the wife's *vakil*, his name and that of his father and their residences, with specification of the relationship which the *vakil* bears to the wife, if any.
9. Names of the two witnesses to the due authorization of the wife's *vakil*, and those of their fathers, with their residences.
10. Name of village or town, police-jurisdiction and district where the *Khula* took place.
11. Name of the person in whose house the *Khula* took place, and that of his father.
12. Names of the witnesses, if any, to the divorce being effected, the names of their fathers and their residences.
13. Name of the person identifying the husband, and that of his father and their residences.
14. Date of registration,—to be given in the English style.

* This column will be blank if the woman is not represented by a *vakil*

BENGAL ACT 2 OF 1876

[THE CALCUTTA POLICE (AMENDMENT) ACT, 1876].¹

(9th February, 1876.)

Title, preamble, ss. 1 (local extent, commencement). 2 (repeal). 3 to 9 (amendment and extension of Act 11 of 1849). 10, 11 (amendment and extension of Act 21 of 1856). Rep. by the Bengal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878).

12. Act 4 (B. C.) of 1866 shall be read as if for section 40 of the said Act the following sections were substituted :—

40. [Printed *ante*, p. 101].

Amendment
of section 40
of Ben. Act
4 of 1866.

13 to 15. (*Unlicensed cultivation of plants producing intoxicating drugs; imprisonment in default of payment of fine; power to assign granting of licenses to municipality*). Rep. by the Bengal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878).

SCHEDULE.

Enactments repealed.

Rep. by the Bengal Excise and Licensing Act, 1878 (Ben. Act 7 of 1878).

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. 1—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—*vide* Act 10 of 1914, Sch. 11.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1875, Pt. IV, page 259; for Report of Select Committee, see *ibid.* 1875, Pt. IV, page 455, and for Proceedings in Council, see *ibid.* 1875, Supplement, page 439, *ibid.* 1875, Supplement, pages 681, 985, 989 and 1021.

LOCAL EXTENT.—Section 12 of this Act extends only to the town of Calcutta.

BENGAL ACT 3 OF 1876
(THE BENGAL IRRIGATION ACT, 1876).

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BENGAL ACT 3 OF 1876

(THE BENGAL IRRIGATION ACT, 1876).¹

(29th March, 1876.)

An Act to provide for Irrigation in the Provinces subject to the Lieutenant-Governor of Bengal.²

Whereas it is necessary to make provision for the construction, maintenance and regulation of canals for the supply of water therefrom, and for the levy of rates for water so supplied, in the provinces subject to the Lieutenant-Governor of Bengal;² It is hereby enacted:—

Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Irrigation Act, 1876; It shall take effect in those districts in the provinces subject to the Lieutenant-Governor of Bengal² to which the said Lieutenant-Governor³ shall extend it by an order⁴ published in the Calcutta Gazette; and shall commence on the day which shall be in such order provided for the commencement thereof.

Short title.

Local extent.

Commencement.

2. (*Repeal of Acts*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

3. In this Act, unless there be something repugnant in the subject or context,—

Interpretation-clause.

(1) "canal" includes—

"Canal."

(a) all canals, channels and reservoirs hitherto constructed, maintained or controlled by Government

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1876 Pt. IV, p. 76; for Report of Select Committee, see *ibid.*, p. 380; and for Proceedings in Council see *ibid.*, 1876, Supplement, pp. 8, 412, 1497, *ibid.*, 1876, Supplement, p. 51.

LOCAL EXTENT.—This Act takes effect in Bengal districts to which it is extended by order under s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

EXEMPTION FROM STAMP DUTY.—Bonds or mortgage-deeds executed by headmen nominated, under rules framed in accordance with section 99 of this Act, for the due performance of their duties under the Act, are exempted from stamp duty—see the Indian Stamp Act, 1899 (2 of 1899), Sch. I, Arts. 16, 57, in General Acts, 1898-1903, Ed. 1903, pp. 415, 482.

EXCLUSION OF OTHER ACTS.—Nothing in the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), applies to any embankment, land or water-course which is under the operation of the present Act—see Ben. Act 2 of 1882, s. 91, *post*, p. 661.

Nothing in the Bengal Embankment Act, 1873 (Ben. Act 6 of 1873), applies to any canal or flood-embankment as defined in the present Act—see s. 4, *post*, p. 515.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ For a list of orders made under section 1 for Bengal, as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.—Preliminary.—Sec. 3.)

for the supply or storage of water, or which may hereafter be so constructed, maintained or controlled;

- (b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;
- (c) all village-channels as defined in clause (2) of this section;
- (d) all drainage-works as defined in clause (3) of this section;
- (e) any part of a river, stream, lake, natural collection of water or natural drainage-channel to which the Lieutenant-Governor¹ has applied the provisions of Part II of this Act, or of which the water has been applied or used before the passing of this Act for the purpose of any existing canal;
- (f) all lands on the banks of any canal as defined in articles (a), (b), (c), (d) and (e) of this clause, which have been acquired by Government:

"Village-channel."

(2) "village-channel" means any channel by which water is led from a canal directly into the fields to be irrigated, and includes all subsidiary works connected with any such channel, except the sluice or outlet through which water is supplied from a canal to such channel:

"Drainage-works."

(3) "drainage-work" means any work in connection with a system of irrigation which has been or may hereafter be made or improved by the Government for the purposes of the drainage of the country, whether under the provisions of Part IV of this Act or otherwise, and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith, but does not include works for the removal of sewage from towns:

"Flood-embankment."

(4) "flood-embankment" means any embankment constructed or maintained by the officers of Government in connection with any system of irrigation-works for the protection of lands from inundation, or which may be declared by the Lieutenant-Governor¹ to be maintained in connection with any such system; and includes all groins, spurs, dams and other protective works connected with such embankments:

"Collector."

(5) "Collector" means the head revenue-officer of a district, and includes any officer appointed by the Lieutenant-Governor¹ to exercise all or any of the powers of a Collector under this Act:

"Court."

(6) "Court" means, in the Regulation Provinces, a principal Civil Court of original jurisdiction;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

[1870.]

(Part I.—Preliminary.—Part II.—Of the Application of Water for Public Purposes.—Secs. 4-6.)

and, in the Non-Regulation Provinces, the Court of a Commissioner of a Division.

unless when the Lieutenant-Governor¹ has appointed (as he is hereby empowered to do), either specially for any case, or generally within any specified local limits, a judicial officer to perform the functions of a Judge under this Act, and then the expression "Court" means the Court of such officer:

(7) "canal officer" means an officer appointed² under this Act to exercise control or jurisdiction over a canal or any part thereof; and includes every officer to whom any of the functions of a canal-officer under this Act have been assigned³ by the Lieutenant-Governor⁴:

"Canal-officer."

(8) "section" means a section of this Act:

"Section."

(9) "owner" includes every person having a joint interest in the ownership of the thing specified; and all rights and obligations which attach to an owner under the provisions of this Act shall attach jointly and severally to every person having such joint interest in the ownership.

"Owner."

Ben Act 6 of 1870.

4. Nothing contained in the Bengal Embankment Act, 1873,⁵ shall apply to any canal or flood-embankment as defined in this Act.

Exemption from Bengal Embankment Act.

5. The Lieutenant-Governor¹ may from time to time declare by notification⁶ in the Calcutta Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

Power to appoint officers.

PART II.

OF THE APPLICATION OF WATER FOR PUBLIC PURPOSES.

6. Whenever it appears expedient to the Lieutenant-Governor¹ that the water of any river or stream flowing in a natural channel, or of any lake or other natural collection of still water, should be applied or used by the Government for the purpose of any existing or projected canal.

Notification when water supply to be applied for public purposes.

the Lieutenant-Governor¹ may, by notification⁶ in the Calcutta Gazette, declare that the said water will be so applied or used after a day to be named in the said notification, not being earlier than three months from the date thereof.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of orders made under section 3 (7) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ So much of Ben. Act 6 of 1870 as is unrevoked is printed *ante*, p. 235.

⁴ For lists of notifications issued under section 5 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ For a list of notifications issued under section 6 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part II.—Of the Application of Water for Public Purposes.—
Secs. 7-10.)

Powers of
canal officer.

7. At any time after the day so named, any canal-officer acting under the orders of the Lieutenant-Governor¹ in this behalf may enter on any land and remove any obstructions, and may close any channels, and do any other thing necessary for such application or use of the said water.

Notice as to
claims for
compensation.

8. As soon as is practicable after the issue of such notification, the Collector shall cause public notice to be given at convenient places stating that the Government intends to apply or use the said water as aforesaid, and that claims for compensation in respect of the matters mentioned in section 11 may be made before him.

A copy of sections 11, 12 and 13 shall be annexed to every such notice.

Contents of
notice.

9. When any claim for compensation is made before the Collector in accordance with the last preceding section, the Collector shall issue a notice requiring all persons interested in the matter in respect of which compensation is claimed to appear personally or by agent before him at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the property affected, and the amount and particulars of their claims to compensation for such interests.

Notice to
occupiers.

The Collector shall also serve notice to the same effect on the occupier (if any) of the land entered on, and on such persons known or believed to be interested in the matter in respect of which compensation is claimed, or to be entitled to act for persons so interested, as reside within his district.

Power to
require
statements as
to name and
interests.

10. The Collector may also require any person on whom a notice may be served under the last preceding section, and who makes a claim for compensation in accordance therewith, to deliver to him a statement containing, so far as may be practicable, the name of every other person possessing any interest in the property affected or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for the year next preceding the date of the statement.

Penalty for
failure to
comply.

If any person shall fail to comply within the time fixed by the notice with a requisition made under this section, the Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees; and such fine shall be payable daily until the requisition is complied with, and the Collector may proceed from time to time to levy the amount which has become due in respect of any such fine.

¹New the Governor or Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912) s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

of 1876.]

*(Part II.—Of the Application of Water for Public Purposes.—
Sec. 11.)*

notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

Every person required to make or deliver a statement under this section shall be deemed to be legally bound to do so within the meaning of sections 175 and 176¹ of the Indian Penal Code.

of 1860.

11. No compensation shall be awarded for any damage caused by—

- (a) stoppage or diminution of percolation or floods;
- (b) deterioration of climate or soil;
- (c) stoppage of navigation, or of the means of rafting timber or watering cattle.

Person required to make statements legally bound to do so.

Damage for which compensation shall not be awarded.

But compensation may be awarded in respect of any of the following matters:—

- (d) stoppage or diminution of supply of water through any natural channel to any defined artificial channel, whether above or underground, in use at the date of the issue of the notification under section 6;
- (e) stoppage or diminution of supply of water to any work erected for purposes of profit on any channel, whether natural or artificial, in use at the date of the said notification;
- (f) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification;
- (g) damage done in respect of any right to a water-course or the use of any water to which any person is entitled under the Indian Limitation Act, 1871, Part IV²;
- (h) any other substantial damage, not falling under any of the above clauses (a), (b) or (c), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation.

Matters in respect of which compensation may be awarded.

9 of 1871.

Notwithstanding anything contained in clause (c), compensation may be awarded in respect of the loss of any tolls which

Compensation for loss of tolls lawfully levied.

¹ Printed in the General Acts, 1884-87, Ed. 1909, pp. 291, 292.

² Act 9 of 1871 was repealed and re-enacted by Act 15 of 1877, which again has been repealed and re-enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to Part IV of the latter Act (in General Acts, 1904-09, Ed. 1909, p. 484)—see the General Clauses Act, 1897 (10 of 1897).

(Part II.—Of the Application of Water for Public Purposes.—
Secs. 12-14.)

were lawfully levied on any river or channel at the time of the issue of the notification mentioned in section 6.

Diminution
in market-
value to be
considered

In determining the amount of compensation under this section, regard shall be had to the diminution in the market-value, at the time of awarding compensation, of the property in respect of which compensation is claimed; and, where such market value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property, caused by the exercise of the powers conferred by this Act.

No right to any such supply of water as is referred to in clauses (d), (e) or (f) of this section in respect of a work or channel not in use at the date of the notification, shall be acquired as against the Government, except by grant or under the Indian Limitation Act, 1871, Part IV.¹

Compensation
for loss of
drinking-
water.

12. If any supply of drinking-water is substantially deteriorated or diminished by any works undertaken in accordance with a declaration made by the Lieutenant-Governor² under section 6, the canal-officer shall be bound to provide within convenient distance an adequate supply of good drinking-water in lieu of that so deteriorated or diminished, and no person shall be entitled to claim any further compensation in respect of the said deterioration or diminution.

Limitation of
claims.

13. No claim for compensation for any such stoppage, diminution or damage shall be entertained after the expiration of six months from such stoppage, diminution or damage, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

Inquiry into
claim and
tender of
compensation.

14. On the day fixed in the notice mentioned in section 9, the Collector shall proceed to inquire summarily into the claim and to determine the amount of compensation which in his opinion should be allowed therefor, and shall tender such amount to the persons interested who have attended in pursuance of the notice given under section 9.

For the purpose of such inquiry the Collector shall have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and, as far as may be, in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure³.

¹ Act 9 of 1871 was repealed and re-enacted by Act 15 of 1877, which again has been repealed and re-enacted by the Indian Limitation Act, 1908 (9 of 1908), and this reference should now be construed as a reference to Part IV of the latter Act (in General Acts, 1904-09, Ed. 1909, p. 464)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts 1897-97, Ed. 1909, p. 679.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

³ Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 34 of 1902. The latter Act has again been repealed and re-enacted by the Code of Civil Procedure, 1908 (14 of 1908), and this reference should now be taken to be made to the latter Code—see s. 136 thereof, and General Acts, 1904-1909, Ed. 1909, p. 124.

of 1876.]

*(Part II.—Of the Application of Water for Public Purposes.—
Secs. 15-19.)*

15. The Collector may, if no claimant attends pursuant to the notice, or if for any other cause he thinks fit, from time to time, postpone the inquiry to a day to be fixed by him.

Postponement of inquiry.

16. If the Collector and the persons interested agree as to the amount of compensation to be allowed, the Collector shall make an award under his hand for the same.

Award in case of compensation being agreed on.

Such award shall be filed in the Collector's office, and shall be conclusive, as between the Collector and the persons interested, of the value of the said property and the amount of compensation allowed for the same.

Award to be filed and to be evidence.

17. If the Collector and the persons interested do not agree as to the amount of compensation to be allowed, or if upon the said inquiry any question respecting the title to the property of which the value has been diminished, or any right thereto, or interest therein, arises between or among two or more persons making conflicting claims in respect thereof, the Collector shall refer the matter to the determination of the Court in manner hereinafter provided.

Collector to refer matter to Court when compensation not accepted.

18. If, when the Collector proceeds to make the inquiry as mentioned in sections 14 and 15, no claimant attends, or if any person whom the Collector has reason to think interested does not attend, the Collector shall hold a proceeding and record the following particulars :—

Collector to record particulars in certain cases.

- (a) the nature and extent of the property of which the value has been diminished and in respect of which compensation is claimed, and the character and extent of the damage done ;
- (b) the names of the persons whom he has reason to think interested in such property ;
- (c) the amount fixed by him as compensation ; and,
- (d) the grounds on which such amount was determined ;

and shall place the amount so fixed by him in deposit, there to be held on account of the persons interested, and shall issue a notice to the persons believed to be interested, informing them that the said amount has been deposited as required by this section, and that, should no application be made to the Court (as provided in the next succeeding section) within six weeks of the issue of the notice on the last of the persons named therein, the Collector will pay the amount to any persons legally authorized to receive and to give an acquittance for the same.

And to place amount of compensation in deposit.

19. Any person on whom notice may be served under the same last preceding section, and any person interested in any property in respect of which such notice has been issued, may, within six weeks of the service of such notice, apply to the Court stating his objection to the amount of compensation as fixed by the Collector under the last preceding section, and the amount which he claims as compensation.

Objections to amount of compensation fixed by Collector.

*(Part II.—Of the Application of Water for Public Purposes.—
Secs. 20-24).*

On receipt of such application the Court shall proceed to determine the amount of compensation to be paid on account of the claim and all other matters, as if a reference had been made to it under section 17.

Procedure in making reference

20. In making reference under section 17 the Collector shall state, for the information of the Court, the particulars mentioned in section 18.

Procedure on receipt of reference under section 17.

21. On receipt of a reference under section 17 the Court shall proceed, as far as may be practicable, in accordance with sections 19 to 23 (inclusive), and sections 26 to 36 (inclusive), of the Land Acquisition Act, 1870 :¹

10 of 1

Provided that, instead of the last clause of the said section 26, the following shall be read :—“The provisions of this section and of section 11 of the Bengal Irrigation Act, 1876, shall be read to every assessor in a language which he understands, before he gives his opinion as to the amount of compensation to be awarded.”

Particulars of apportionment to be specified.

22. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, whether such award be made by the Collector or by the Court, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Disputes as to apportionment

23. When the amount of compensation has been settled under section 16, if any dispute arises as to the apportionment of the same or any part thereof, the Collector shall refer such dispute to the decision of the Court.

All costs entailed by such a reference, and the proceedings of the Court thereon, shall be paid by the parties who dispute the apportionment of the compensation, in such proportions as the Court may direct, and the Collector shall not be required to disburse any such costs, nor shall any such costs be recovered from the Collector.

Determination of proportions.

24. When the amount of compensation has been settled by the Court, and there is any dispute as to the apportionment thereof, or when a reference to the Court has been made under the last preceding section, the Judge sitting alone shall decide the proportions in which the persons interested are entitled to share in such amount.

An appeal shall lie from every such decision to the High Court, unless the Judge whose decision is appealed from is not the District Judge, in which case the appeal shall lie, in the first instance, to the District Judge.

¹ Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to ss. 20 to 22 and 26 to 28 of the latter Act—see s. 3 of the Act, in General Acts, 1887-97, Ed. 1909, p. 864.

of 1876.]

(Part II.—Of the Application of Water for Public Purposes.—
Secs. 25-29.)

Every appeal under this section shall be presented within the time and in manner provided by the Code of Civil Procedure¹ for regular appeals in suits.

s of 1859.

25. Payment of the compensation shall be made by the Collector in accordance with the award made by him under section 16; or the proceeding held by him under section 18, if no application be made to the Court as provided by section 19; or the award made by the Court or the decision of the Judge under section 21; or, in the case of an appeal, under section 24, in accordance with the decision in appeal, as the case may be.

Payment of
compensation.

26. The amount of compensation fixed by any award, proceeding or decision, as specified in the last preceding section, shall be deemed to be the full amount payable by the Government in respect of the claim dealt with therein; and the Government shall not be liable for any further claim to any person whatever in respect of any matter which was the subject of such award, proceeding or decision; nor shall any such claim be made against the Government in respect of the payment of any portion of such compensation in accordance with any award, proceeding or decision as aforesaid, or in accordance with any decision of the Judge, or of the District Judge, or of the High Court in appeal, as the case may be, under section 24; and no suit shall be brought to set aside an award or decision under this Act.

Government
not liable to
further claim

27. Nothing contained in the last preceding section shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act to pay the same to the person lawfully entitled thereto.

Liability of
person
receiving
compensation
not affected.

28. Every tenant holding under an unexpired lease, or having a right of occupancy, who is in occupation of any land at the time when any stoppage or diminution of the supply in respect of which compensation is allowed under section 11 takes place, may claim an abatement of the rent previously payable by him for the said land, on the ground that the interruption reduces the value of the holding:

Abatement of
rent on
interruption of
water-supply.

Provided that no part of the said compensation shall have been received by the said tenant in respect of such reduction in the value of his holding.

29. If a water-supply increasing the value of such holding is afterwards restored to the said land otherwise than at the cost of the tenant, the rent of the tenant may be enhanced, in respect of the increased value of such land due to the restored water-supply, to an amount not exceeding that at which it stood immediately before the abatement.

Enhancement
of rent on
restoration of
water-supply.

¹ Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1882. The latter Act has again been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to the latter Code—see s. 308 thereof, in General Acts, 1904-1908, Ed. 1909, p. 184.

(Part II.—Of the Application of Water for Public Purposes.—
Part III.—Of the Maintenance of Canals.—Secs. 30-33.)

Such enhancement shall be on account only of the restored water-supply, and shall not affect the liability of the tenant to enhancement of rent on any other grounds.

Compensation
when due.

Interest.

Collector may
invest amount
deposited or
awarded in
Government
securities.

30. All sums of money payable for compensation under this Part shall become due three months after the claim for such compensation is made in respect of the stoppage, diminution or damage complained of, and simple interest at the rate of six *per centum per annum* shall be allowed on any such sum remaining unpaid after the said three months, except where the non-payment of such sum is caused by the wilful neglect or refusal of the claimant to receive the same:

Provided that the Collector may at any time invest the whole or any portion of the amount payable as compensation under this Act in any Government securities, and such securities shall be held by the Collector for the benefit of the persons interested, and the persons interested shall be bound to receive such securities with any interest which may have accrued upon them as full payment of the sum which the Collector paid for such securities, and of any sum which he may have paid as expenses incurred in purchasing the same, and of any interest which might otherwise have accrued on such sums.

No compensa-
tion in respect
of prior works

Service of
notice

31. No compensation shall be claimable under this Act in respect of any works executed before it came into force, or of any damage, injury or loss caused by such works.

32. Service of any notice under this Part shall be made by delivering or tendering a copy thereof signed by the officer therein mentioned.

Whenever it may be practicable, the service of the notice shall be made on the person therein named.

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business; and, if such person has no ordinary place of residence within the district, service of any notice may be made by sending copy of such notice by post in a registered cover addressed to such person at his usual place of residence.

PART III.

OF THE MAINTENANCE OF CANALS.

Entry for
inquiry.

33. Whenever it shall be necessary to make any inquiry or examination in connection with a projected canal or with

of 1876.]

(Part III.—Of the Maintenance of Canals.—Secs. 34–37.)

the maintenance of an existing canal, or with a projected flood-embankment, or with the maintenance of an existing flood-embankment, any canal-officer or other person acting under the general or special orders of a canal-officer may enter upon such land as he may think necessary for the purpose, and may exercise all powers and do all things in respect of such lands as he might exercise and do if the Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1870,¹ to the effect that land in that locality is likely to be needed for a public purpose; and may set up and maintain water-gauges, and do all other things necessary for the prosecution of such inquiry and examination.

34. Such canal-officer or other person may also enter upon any land, building or village-channel on account of which any water-rate is chargeable for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of the canal from which such water is supplied.

Power to inspect and regulate water-supply.

35. In case of any accident being apprehended or happening to a canal or flood-embankment, any canal-officer, or any person acting under his general or special orders in this behalf, may enter upon any lands adjacent to such canal or flood-embankment, and may execute all works which may be necessary for the purpose of preventing such accident, or repairing any damage done.

Power to enter for repairs, and to prevent accidents.

36. When such canal-officer or person proposes, under the provisions of either of the three last preceding sections, to enter into any building or enclosed court or garden attached to a dwelling-house not supplied with water flowing from any canal, and not being adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

Notice to occupier of building, etc.

37. In every case of entry upon any land or building under section 7, section 33, section 34 or section 35, the canal-officer or person making the entry shall ascertain and record the nature of any crop, tree, building or other property to which damage has been done, and the extent of the damage done to any such property, and shall tender compensation to the proprietors or occupiers for all damage done to the same by the entry or by any works executed.

Compensation for damage to land.

If such tender is not accepted, the canal-officer shall refer the matter to the Collector, who shall thereupon give notice in writing to the person interested in such land and to the canal-officer, requiring them to attend before him, on a date to be

¹ Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to s. 4 of the latter Act—see s. 3 (3) thereof, in General Acts, 1887–87, Ed. 1909, p. 364.

[Ben. Act 3]

(Part III.—Of the Maintenance of Canals.—Part IV.—Of Drainage.—Secs. 38-40.)

fixed in the notice, for the purpose of making inquiry as to the amount of compensation.

Appeal from
Collector's
decision to
Commissioner

38. After such inquiry as he may think necessary, the Collector shall decide the amount of compensation payable; and such decision shall be subject to an appeal to the Commissioner of the Division:

Provided that such appeal be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the decision appealed against.

If no such appeal be preferred, the decision of the Collector, or, if such appeal be preferred, the decision of the Commissioner shall be final and conclusive.

(Government
to provide
means of
crossing
canals and
of drainage.

39. Suitable means of crossing canals constructed or maintained at the cost of Government shall be provided at such places as the Lieutenant-Governor¹ thinks necessary for the reasonable convenience of the inhabitants of the adjacent lands; and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent lands being obstructed by any canal.

Collector to
certify to
Government
that means of
crossing
canals and
drainage have
been provided

On the completion of any canal or of any convenient section of any canal the Collector, after causing such inspection to be made as may be necessary, shall certify to the Government that suitable and sufficient means of crossing the canal, and suitable and sufficient means of drainage as aforesaid, have been provided; or shall report in what respects the provision made for the above purposes is defective; and if, at any time after he shall have given such certificate, it shall be brought to his notice that the provision made as above has proved insufficient, the Collector shall cause inquiry to be made into the circumstances of the case, and, if the statement is established, shall report his opinion thereon for the consideration of the Lieutenant-Governor,¹ and the Lieutenant-Governor¹ shall cause such measures in reference thereto to be taken as he thinks proper.

PART IV.

OF DRAINAGE².

40. Whenever it appears to the Lieutenant-Governor¹ that injury to the public health or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of

40. Whenever it appears to the Lieutenant-Governor¹ that injury to the public health or public convenience, or to any canal, or to any land for which irrigation from a canal is available, has arisen or may arise from the obstruction of

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For further enactments as to drainage, see the Bengal Drainage Act, 1880 (Ben. Act 6 of 1880), post, p. 491, and the Bengal Sanitary Drainage Act, 1895 (Ben. Act 8 of 1895) and the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), in Vol. III of this Code.

of 1876.]

(Part IV.—Of Drainage.—Secs. 41-44.)

any river, stream or natural drainage-course, the Lieutenant Governor¹ may, by notification² published in the Calcutta Gazette, prohibit, within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order³ the removal or other modification of such obstruction.

Thereupon so much of the said river, stream or natural drainage-channel as is comprised within such limits shall be held to be a drainage-work as defined in section 3.

41. The canal-officer or other person authorized by the Lieutenant-Governor¹ in that behalf may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order.

Canal-officer may issue notice to person causing obstructions.

42. If, within the time so fixed, such person does not comply with the order, the canal-officer may cause the obstruction to be removed or modified; and if the person to whom the order was issued does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as a demand * * *

Canal-officer may cause obstructions to be removed.

43. Whenever it appears to the Lieutenant-Governor¹ that any drainage works are necessary for the public health, or for the improvement or proper cultivation or irrigation of any lands in districts to which the provisions of the Bengal Embankment Act, 1873,⁴ do not apply, or that protection from floods or other accumulations of water, or from erosion by a river, is required for any lands.

When drainage-works necessary, Lieutenant-Governor may order scheme to be drawn up and carried out.

the Lieutenant-Governor¹ may cause a scheme for such works to be drawn up and carried into execution, and the persons authorized by the Lieutenant-Governor¹ to draw up and execute such scheme may exercise in connection therewith all or any of the powers conferred on canal-officers by sections 33, 34 and 35, and shall be liable to any or all of the obligations imposed upon canal-officers by sections 36 and 37.

44. Whenever, in pursuance of a notification made under section 40, any obstruction is removed or modified;

Disposal of claims for compensation.

or whenever any drainage-work is carried out under the last preceding section.

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction, or the construction of such work, may be made before the Collector, and he shall deal with the same in the manner

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3 and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of notifications and orders issued under section 40 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ The reference to Ben. Act 7 of 1868, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), is omitted. As to recovery of "demands," see now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1918), s. 8 (6) and Sch. I, in Vol. III of this Code.

⁴ So much of Ben. Act 6 of 1873 as is unrepealed is printed *ante*, p. 286.

(Part IV.—Of Drainage.—Part V.—Of Village-channels.—
Secs. 45-49.)

provided in Part II; but no compensation shall be allowed for any damage arising from increase of percolation.

Limitation of
such claims.

45. No such claim shall be entertained after the expiration of six months from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period.

PART V.

OF VILLAGE-CHANNELS.

Person "
defined

46. "Person" in this Part includes any number of persons acting jointly.

Register of
village-channels to be
kept.

47. The canal-officer shall keep a register of all village-channels, whether already existing or constructed under this Act, and shall note thereon in respect of every village-channel whether it is a public channel maintained at the cost of the Government, or a private channel maintained at the cost of the owners; and shall register the names of the owners of every such private channel.

Extension or
branch of
village-channel to be
registered.

A village-channel made as an extension of, or a branch to, an existing village-channel shall be registered as a separate village-channel; and so much of the length of any village-channel as lies within the limits of any one village or *mauza* shall be entered on the register as a separate village-channel.

Every section of a village-channel so separately entered on the register shall be deemed to be a separate village-channel in respect of all rights and liabilities imposed by this Act:

Canal-officer
may register
as one village-
channel
section in-
cluding
portions lying
within two or
more villages.

Provided always that, whenever it shall seem fit to the canal-officer for any special reason to enter upon his register as one village-channel a section of a village-channel which includes portions lying within two or more villages or *mauzas*, the canal-officer may, with the consent of the Collector obtained in writing, register such section as one village-channel, and such section shall be deemed to be one village-channel in respect of all rights and liabilities imposed by this Act.

Person may
acquire
existing
village-channel by agree-
ment.

48. Any person may, with the consent of the canal-officer, acquire the property in an existing village-channel for the purpose of improving or maintaining it—

(a) by taking over any village-channel belonging to Government;

(b) by transfer of a village-channel from the owner thereof by private agreement.

Construction
of new village-
channel.

49. Any person may, with the permission of a canal-officer, construct a new village-channel if he has obtained the

of 1876.]

(Part V.—Of Village-channels.—Secs. 50-52.)

consent of the owners and occupiers of the land required therefor.

50. Any person desiring the construction of a new village-channel, but being unable or unwilling to construct it under a private arrangement with the owners and occupiers of the land affected, as mentioned in the last preceding section, may apply in writing to the canal-officer stating—

Application by person desiring construction of new village-channel.

that he desires the said canal-officer, in his behalf and at his cost, to do all things necessary for constructing such village-channel;

that he is ready to defray all costs necessary for acquiring the land and constructing such village-channel.

51. If the canal-officer considers the construction of such village-channel expedient, he may call upon the applicant to deposit any part of the expense such officer may consider necessary,

Procedure when canal-officer considers construction of village-channel expedient.

and, upon such deposit being made, shall cause inquiry to be made into the most suitable alignment for the said village-channel.

and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof,

and shall forthwith publish a notification in every village through which the village-channel is proposed to be taken that so much of such land as is situated within such village has been so marked out,

and shall send a copy of such notification to the Collector of every district in which any part of such land is known to be situate for publication on such land.

Such notification shall also call upon any person who wishes to be admitted a joint owner of such village-channel to make his application in that respect within thirty days of the publication of such notification.

Notice to person wishing to be joint owner.

If any such applicant appears, and his application is admitted, he shall be liable to pay his share in the construction of such village-channel and in the cost of acquiring such land, and shall be an owner of such village-channel constructed.

52. On receipt of copy of such notification, the Collector shall proceed to acquire such land under the provisions of the Land Acquisition Act, 1870,¹ as if a declaration had been issued by the Government for the acquisition thereof under section 6 of that Act, and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section 7 of the said Act, and (if necessary) as if the Government had issued orders for summary possession being taken under section 17 of the said Act.

Collector to acquire land.

10 of 1870.

¹ Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to the latter Act—see s. 2 (3) thereof, in General Acts, 1887-97, Ed. 1909, p. 861.

(Part V.—Of Village-channels.—Secs. 53-57.)

Procedure
after con-
struction of
village-
channel.

53. On being put in possession of the land the canal-officer shall construct the required village-channel; and on its completion shall give to the applicant notice thereof, and of any sum payable by him on account of the cost of acquiring the land and constructing the village-channel.

On such notice being given, such sum shall be due from the applicant to the canal-officer.

On receipt of payment in full of all expenses incurred, the canal-officer shall make over possession of such village-channel to such applicant.

Canal-officer
may direct
transfer of
village-
channel.

54. Whenever a canal-officer considers that the transfer of a village-channel from the owner is necessary for the proper management of the irrigation from such village-channel, he may cause a notice to be served on the registered owner to appear on a certain day, not less than fifteen days after service of notice, and to prefer any objection to such transfer.

After hearing such objection, the canal-officer may order that such village-channel shall be transferred to such person as he may think fit, and that such person be registered as owner of the said village-channel:

Provided that no person shall be registered as the owner of a village-channel under this section, unless he has expressed in writing his willingness to be so registered, and until he has paid to the canal-officer such sum as may be fixed by the canal-officer under section 56.

Person may
be admitted
joint owner
of existing
village-
channel.

55. Any person wishing to become the joint owner of an existing village-channel may petition the canal-officer to that effect, and on receipt of such petition the canal-officer may, if he think fit, issue a notice as provided in the last preceding section upon the registered owner, and, after hearing any objection which the registered owner may prefer against the admission of such applicant to be a joint owner, may direct that the applicant shall be registered as such joint owner.

Canal-officer
to fix sums
payable on
transfer or
acquisition
of joint
ownership.

56. When deciding the question of transfer or of admission to joint ownership under either of the two last preceding sections, the canal-officer shall also determine what amount shall be paid—

as the costs of the proceedings;
as compensation to the previous owners:

and the amount so determined shall be due by the transferee, or the person admitted to registry as a joint owner, as the case may be; and, on payment of such amount, the village-channel shall be transferred, or the applicant shall be registered as owner or as a joint owner thereof, as the case may be.

Canal-officer
may fix rent
for a village-
channel
transferred.

57. Instead of awarding payment of compensation under the last preceding section, the canal-officer may fix an amount of rent to be paid annually to the previous owners by the persons to whom the village-channel is transferred.

of 1876.]

(Part V.—Of Village-channels.—Secs. 58-60.)

58. Every person—

- (a) acquiring a village-channel as provided in section 48; or
- (b) constructing a village-channel as provided in section 49; or
- (c) receiving possession of a village-channel as provided in section 53; or
- (d) acquiring a village-channel by transfer as provided in section 54; or
- (e) being admitted to registration as joint owner in a village-channel as provided in section 55.

Ownership
of village-
channel.

shall be deemed to be an owner of such village-channel.

59. Every owner of a village-channel shall be bound—

- (a) to construct and maintain all works necessary for the passage across such village-channel of canals, village-channels, drainage-channels and public roads existing at the time of its construction, and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the occupants of neighbouring lands;
- (b) to maintain such village-channel in a fit state of repair for the conveyance of water;
- (c) to allow the use of it to others on such terms as may be declared equitable by the canal-officer as herein-after prescribed;

Obligations
and rights of
owner
of village-
channel.

and shall be entitled—

- (d) to have a supply of water by such village-channel at such rates and on such terms as are prescribed by the rules made by the Lieutenant-Governor¹ under section 99;
- (e) to receive such rent for the use of the village-channel by other persons as the canal-officer may award him.

60. If the owner of a village-channel fails to fulfil the obligations mentioned in clauses (a) and (b) of the last preceding section, the canal-officer may require him by notice to execute the necessary works or repairs within a period not being less than fifteen days, and in the event of failure may execute them on his behalf;

If owner of
village-chan-
nel fails to
execute work
or repair
canal-officer
may do so.

and all expenses incurred by the execution of such works or repairs shall be a sum due by such owner to Government;

and, if any such owner who has already failed on one occasion to execute such works or repairs when required to do so, and has left them to be executed on his behalf by the canal-officer, shall again fail to execute any such works or repairs when required to do so; or if any such owner shall refuse in

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code

(Part V.—Of Village-channels.—Secs. 61-66.)

any respect to fulfil the obligation mentioned in clause (c) of the last preceding section. after having been required to fulfil the same by a notice in writing from the canal-officer, the canal-officer may strike such village-channel off the register, and so disqualify it to be any longer a medium for the conveyance of canal-water.

Resignation
of ownership.

61. Any owner may resign his interest in a village-channel :

Provided such resignation be duly registered in the office of the canal-officer.

Owner may
transfer in-
terest.

62. Any owner of a village-channel may, with the consent of the canal-officer, transfer his interest to any other person :

Provided that the liabilities of the person so transferring shall not cease till such transfer is registered in the office of the canal-officer.

Procedure on
death of
owner of
village-
channel.

63. If any owner of a village-channel dies, his legal representative may apply for registration in his stead.

If no such application for registry be made within six weeks from the death of the said owner, the remaining registered owners of the village-channel, if any, shall be deemed to be owners of the entire interest in the village-channel, until some other person shall have established his claim to be registered as owner in place of the deceased.

If the deceased shall have been the sole registered owner, the canal officer shall be deemed to be his representative for the purposes of this Part, and shall exercise all rights and be bound by all liabilities which attached to the deceased in respect of his ownership of the said village-channel, until some person shall have established his right to be registered as owner thereof in place of the deceased; and the canal-officer shall account to such person for all sums received and expended in the exercise of the rights and discharge of the liabilities which attached to the deceased in respect of such ownership.

Procedure
when person
applies for
registration
in lieu of
deceased
owner.

64. When any person applies for registration under the three last preceding sections, the canal-officer shall serve notice on the other registered owners to prefer any objection to the resignation, transfer or succession within fifteen days, and, if no such objection shall be made, or if the objections made be deemed invalid, shall order such resignation, transfer or succession to be registered.

Interest of
owners equal
unless unequal
interest
registered.
Supply of
water to
person not
owner.

65. All joint owners of a village-channel shall be held to have an equal interest in it, unless, with the permission of the canal-officer, they register specific unequal interests.

66. Any person not an owner of a village-channel, desiring to have a supply of water through such village-channel, may make a private arrangement with the owners for the conveyance of water, or may apply to the canal-officer for authority to use such village-channel.

of 1876.]

(Part V.—Of Village-channels.—Part VI.—Of the Supply of Water.—Secs. 67-74.)

67. On receipt of such application the canal-officer shall serve notice on the owners to show cause why such permission should not be granted, and, if no objection be raised, or if any objections be raised and found invalid, shall authorize the conveyance of such supply on such conditions as may appear to him equitable.

Canal-officer may authorize supply.

68. The canal-officer shall also fix a sum as rent to be paid for the use of such village-channel to the owner.

Canal-officer to fix rent of village-channel.

Such rent may be in the form of a percentage on the water-rate of the person using the village-channel, or otherwise, as may be fixed by the canal-officer.

69. The owner of a village-channel which receives its water through another village-channel may, at the discretion of the canal-officer, either be declared a joint owner of such other village-channel, or may be required to pay rent for the use of the same to the owner thereof, as provided in the last preceding section.

Owner of village-channel receiving supply through another village-channel.

70. All rent payable under either of the two last preceding sections shall be deemed to be due in the same instalments and at the same periods as the water-rate is due, or in such other instalments and at such other dates as the canal-officer may direct, and may be collected by the canal-officer on behalf of the person entitled to it, if the canal-officer thinks fit.

Instalments in which rent is payable.

71. Any canal-officer collecting rent under the last preceding section on behalf of any person entitled thereto shall be bound to pay to the person entitled to the same no more than the amount actually collected by him as rent.

Canal-officer to pay no more than amount collected.

72. No land acquired under this Part for a village-channel shall be used for any other purpose without the consent of the canal-officer previously obtained.

Land acquired not to be used for other purpose.

73. Every sum declared to be due under this Part shall be recoverable by the canal-officer on behalf of the Government or of the person entitled to receive the same, and shall be held to be a demand * * * *

Dues how recovered.

PART VI.

OF THE SUPPLY OF WATER.

74. Every person desiring that water shall be supplied to his land from a canal shall present a written application to that effect to the canal-officer, in the form given in Schedule B hereto annexed, or in a similar form, binding himself by the rules made by the Lieutenant-Governor¹ under the powers²

Water supplied by written application only.

¹ The reference to Ben. Act 7 of 1868, which was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), is omitted. As to recovery of "demands," see now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), s. 8 (6) and Sch. I, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part VI.—Of the Supply of Water.—Secs. 75, 76.)

vested in him by this Act; and no person shall be liable to pay any rate or due whatever, on account of water supplied to his land with the permission of the canal-officer, otherwise than on such application, nor shall water be supplied otherwise than on such application.

Written
permission
to be given.

75. If the application mentioned in the last preceding section be granted by the canal-officer, the canal-officer shall cause his permission to be recorded in the form given in Schedule C hereto annexed, or in some similar form, binding himself by the rules made by the Lieutenant-Governor¹ as aforesaid.

Rules subject
to conditions
as to—
power to stop
water-supply;

76. All rules made by the Lieutenant-Governor¹ under section 99 shall be consistent with the following conditions:—

(a) The canal-officer may not stop the supply of water to any village channel, or to any person who is entitled to such supply, except in the following cases:—

- (1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority;
- (2) whenever and so long as any village-channel is not maintained in such repair as to prevent the wasteful escape of water therefrom;
- (3) whenever and so long as it is necessary to do so in rotation to supply the legitimate demands of other persons entitled to water;
- (4) whenever and so long as it may be necessary to stop the supply in order to prevent the wastage or misuse of water;

claims to
compensation
in case of
failure or
stoppage of
supply;

(b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the canal-officer considers necessary; but the person suffering such loss shall be entitled to such remission of the ordinary charges payable for the use of the water as is authorized by the Lieutenant-Governor:¹

claims on
account of
interruption
from other
causes;

(c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause, the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption, and the Collector shall award to the petitioner reasonable compensation for such loss.

duration of
supply;

(d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

of 1876.]

(Part VI.—Of the Supply of Water.—Part VII.—Of Water-rates.—Secs. 77-80.)

held to continue only until that crop comes to maturity, and to apply only to that crop; but, if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year:

(e) No person entitled to use the water of any canal, or any work, building or land appertaining to any canal, shall sell or sub-let or otherwise transfer his right to such use without the permission of the canal-officer, but all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal-water to such property, shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place.

sale or
sub-letting of
right to use
canal-water;
contracts for
water
transferable
with land.

77. On application being made for a supply of water to be used for purposes other than those of irrigation, the canal-officer may give permission for water to be taken for such purposes under such special conditions and restrictions as to the limitation and control of the supply as he shall think proper to impose in each case.

Canal-officer
may supply
water for
purposes
other than
those of
irrigation.

PART VII.

OF WATER-RATES.

78. The rates to be charged for canal-water supplied for purposes of irrigation shall be determined¹ by the Lieutenant-Governor,² and all persons accepting the water shall pay for it accordingly.

Charge for
water, how
determined.

79. If water supplied through a village-channel be used in an unauthorized manner, and if the person by whose act or neglect such use has occurred cannot be identified,

Liability
when person
using water
unauthor-
izedly cannot
be identified.

the persons on whose land such water has flowed, if such land has derived benefit therefrom,

or, if no land has derived benefit therefrom, all the persons chargeable in respect of the water supplied through such village-channel in respect of the crop then on the ground,

shall be liable to the charges made for such use, as determined by the Lieutenant-Governor² under section 99.

80. If water supplied through a village-channel be suffered to run to waste, and if, after inquiry by the canal-officer, the person through whose act or neglect such water was

Liability
when water
runs to waste.

¹ For a list of orders made under section 78 for Bengal, as constituted on the 31st March, 1912 see the Bengal Local Statutory Rules and Orders, 1912. Vol. I, Pt. VI.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2 in Vol. I of this Code.

(Part VII.—Of Water-rates.—Secs. 81-86.)

suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such village-channel for the crop then on the ground shall be jointly liable for the charges made in respect of the water so wasted, as determined by the Lieutenant-Governor¹ under section 99.

All questions arising under this and the last preceding section shall be decided by the canal-officer, subject to the provisions of section 91.

Charges recoverable in addition to penalties.

81. All charges for the unauthorized use or for waste of water shall be deemed to be water-rate due on the crop, and may be recovered as such water-rate in addition to any penalties incurred on account of such use or waste.

Power to contract for collection of canal-dues.

82. The canal-officer may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

Sum payable under this Part deemed to be rent.

83. Any sum lawfully due under this Part, either to the Government, or to any person who has entered into an agreement to collect dues for the Government and certified by the canal-officer to be so due, shall be deemed to be rent payable on a *patta* or engagement in respect of the land irrigated, and shall be recoverable as such by the person to whom it is payable:

Provided that the claim (if any) for rent in respect of such land shall have priority over any claim for arrears of water-rate so far as regards recovery of rent by the exercise of the power of distraint.

Person who distrains may be called on to produce account.

84. If any person distrains half or more than half of any crop on account of which water-rate is due, such person shall be bound, on requisition by the canal-officer, to furnish him with an account showing how the produce thus distrained has been appropriated in payment of such rent, and the canal-officer shall be entitled to challenge such account before any Court competent to try suits for arrears of rent in respect of the land in question, and such Court, if it finds that the value of the crop distrained was in excess of the amount of rent which has been due for a period not longer than a year, together with the costs of the distraint, may require the distrainer to pay the water-rate due on such crop.

Arrears of water-rate deemed to be demand.

85. Every arrear of water-rate which is due to Government, and every sum due to Government by any person on account of collection of water-rate, and every sum due to such person on account of water-rate and certified by the canal-officer to be so due, shall also be held to be a demand * * *.

Sections not applying to fines.

86. Nothing in sections 82 to 85 (inclusive) applies to fines.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² The reference to Bengal Act 7 of 1888, which was repealed by the Public Demands Recovery Act, 1890 (Ben. Act 7 of 1890), is omitted. As to recovery of "demands," see now the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), s. 5 (6), and Sch. I, in Vol. III of this Code.

(Part VIII.—Of Jurisdiction.—Secs. 87-91.)

PART VIII.

OF JURISDICTION.

87. Whenever a dispute arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a village-channel, any such person interested may apply in writing to the canal-officer stating the matter in dispute.

Settlement of disputes as to mutual rights and liabilities of persons interested in village-channel.

Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to inquire into the said matter, and, after such inquiry, he may pass his order thereon, or may transfer the matter to the Collector, who shall thereupon inquire into and pass his order on the said matter.

88. Whenever any dispute arises among joint owners of a village-channel as to their shares of expense or as to the amounts severally contributed, or as to failure on the part of any owner to contribute his share, the matter may be decided after inquiry by the canal-officer or Collector, as provided in the last preceding section.

Dispute as to shares and payments.

89. Any order passed by the Collector, under either of the two last preceding sections, and, subject to the provisions of section 91, any such order passed by a canal-officer, shall remain in force until set aside by the decree of a Civil Court, and may be executed by any canal-officer as if it were a decree of the Civil Court.

Order passed by Collector and canal-officer to remain in force until set aside by Civil Court.

90. All suits arising out of the exercise of the power of distraint for recovery of water-rates.

Jurisdiction as to suits arising out of powers of distraint.

or out of any acts done under colour of the exercise of the said power of distraint,

or by persons in receipt of the water-rates against any agents employed by them in the collection of such water-rates, or the sureties of such agents for money received or for accounts kept by such agents in the course of such employment, or for papers in their possession,

shall be cognizable by the same Court or authority as would have jurisdiction if such water-rates were rent due for the land irrigated.

91. Every order passed by a canal-officer under Part V, Part VI, Part VII or Part VIII of this Act shall be appealable to the Collector, provided that the appeal be presented within thirty days of the date on which the canal-officer made the order appealed against; and no appeal shall lie against any proceeding or order of the Collector under this Act, except as otherwise expressly provided in this Act, but all such proceedings and orders shall be subject to the supervision and control of the Commissioner of the Division and of the Board of Revenue¹, who may pass such order thereon as they may respectively think fit.

Appeal and supervision.

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act, 2 of 1918).

(Part VIII.—Of Jurisdiction.—Part IX.—Of Offences and Penalties.—Secs. 92, 93.)

Power to
summon and
examine
witnesses.

92. Any officer empowered under this Act to conduct any inquiry may exercise all such powers connected with the summoning and examining of witnesses, as are conferred on Civil Courts by the Code of Civil Procedure;¹ and every such inquiry shall be deemed a judicial proceeding. ⁸⁰¹

PART IX.

(OF OFFENCES AND PENALTIES.

Offences
under Act.

93. Whoever, voluntarily and without proper authority, does any of the acts following, that is to say:—

(1) damages, alters, enlarges or obstructs any canal or drainage-work;

(2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work, or by any means raises or lowers the level of the water in any canal or drainage-work;

(3) being responsible for the maintenance of a village-channel, or using a village-channel, neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner;

(4) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(5) destroys, defaces or moves any level-mark or water-gauge fixed by the authority of a public servant;

(6) destroys or removes any apparatus, or part of any apparatus, for controlling or regulating the flow of water in any canal or drainage-work;

(7) passes, or causes animals or vehicles to pass, in or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom;

(8) without the permission of the canal-officer causes, or knowingly and wilfully permits, any cattle to graze upon any flood-embankments, or tethers, or causes or knowingly and wilfully permits any cattle to be tethered upon any such embankments, or roots up any grass or other vegetation growing on any such embankments, or removes, cuts or in any way injures or causes to be removed, cut or otherwise injured, any trees, bushes, grass or hedge intended for the protection of such embankment;

¹ Act 8 of 1859 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1882. The latter Act has again been repealed and re-enacted by the Code of Civil Procedure, 1878 (5 of 1908), and this reference should now be taken to be made to the latter Code—see s. 156 thereof. In General Acts, 1904-1909, Ed., 1909, p. 184.

of 1876.]

(Part IX.—Of Offences and Penalties.—Secs. 94-96.)

(9) violates any rule made under the Act, for breach whereof a penalty may be incurred,

45 of 1860.

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code,¹ and on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment for a term not exceeding one month, or to both.

Penalty.

94. Whoever, without the authority of the canal-officer,—

Further offence.

(1) pierces or cuts through, or attempts to pierce or cut through, or otherwise to damage, destroy or endanger the stability of, any flood-embankment;

(2) opens, shuts or obstructs, or attempts to open, shut or obstruct, any sluice in any such embankment;

(3) makes any dam or other obstruction for the purpose of diverting or opposing the current of a river on the banks whereof are flood-embankments, or refuses or neglects to remove any such dam or obstruction when so required by the canal-officer,

45 of 1860.

shall, in case the offence shall not amount to mischief within the meaning of the Indian Penal Code,¹ and on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, or to imprisonment for a term not exceeding six months.

Penalty.

95. Whenever any person is convicted of an offence under either of the last two preceding sections, the convicting Magistrate may order that he shall remove the obstruction or repair the damage in respect of which the conviction is held within a period to be fixed in such order.

Obstruction to be removed and damage repaired.

If such person neglects or refuses to obey such order within the fixed period, the canal-officer may remove such obstruction, or repair such damage, and the cost of such removal or repair shall be levied from such person by the Collector² [under the procedure provided by the Public Demands Recovery Act, 1895³ for the recovery of public demands.]

Ben. Act 1 of 1895.

96. Any person in charge of, or employed upon, any canal may remove from the lands or buildings belonging thereto, or may take into custody without a warrant and take forthwith before a Magistrate or to the nearest police-station, to be dealt with according to law, any person who within his view commits any of the following offences:—

Persons employed on canal may take offenders into custody.

(1) wilfully damages or obstructs any canal;

(2) without proper authority interferes with the supply or flow of water in or from any canal or in any river or

¹ See Act 45 of 1860, s. 425, in General Acts, 1834-67, Ed. 1909, p. 352.

² These words and figures in square brackets in s. 95 were substituted for the words and figures "as a demand under section 1 of the aforesaid Ben. Act 7 of 1868" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II,—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

³ Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1913 (Ben. Act 8 of 1913), and this reference should now be construed as a reference to the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

(Part IX.—Of Offences and Penalties.—Part X.—Of Subsidiary Rules.—Secs. 97-99.)

stream, so as to make dangerous or render less useful any canal.

Saving of
prosecution
under other
laws.

97. Nothing herein contained shall prevent any person from being prosecuted under any other law for any offence punishable under this Act:

Provided that no person shall be punished twice for the same offence.

Compensation
to person in-
jured.

98. Whenever any person is fined for an offence under this Act, the Magistrate may direct that the whole or any part of such fine may be paid by way of compensation to any person who gave information leading to the detection of such offence, or to the conviction of the offender.

PART X.

OF SUBSIDIARY RULES.

Power to
make, alter
and cancel
rules.

99. The Lieutenant Governor¹ may, from time to time make rules² to regulate the following matters:—

- (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
- (b) the cases in which, the officers to whom, and the conditions subject to which, orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;
- (c) the person by whom, the time, place or manner at or in which, anything for the doing of which provision is made in this Act shall be done;
- (d) the amount of any charge made under this Act;
- (e) and generally to carry out the provisions of this Act.

The Lieutenant-Governor¹ may, from time to time, alter or cancel any rules so made.

Publication of
rules.

Such rules, alterations and cancelment shall be published in the Calcutta Gazette, and shall thereupon have the force of law:

Provided that no rules shall be made by the Lieutenant-Governor¹ under the powers conferred on him by this section until a draft³ of the same shall have been published in the Calcutta Gazette for one month, after which time the Lieutenant-Governor¹ may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

² For a list of rules made under section 99 for Bengal, as constituted on the 31st March, 1912 see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ As to such drafts, see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 24, in Vol. III of this Code.

(Schedules A, B.)

SCHEDULE A.

(Repeal of Bengal Acts 8 of 1867 and 6 of 1869). Rep. by the
Repealing and Amending Act, 1903 (1 of 1903), now known
as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

SCHEDULE B.

(See section 74.)

APPLICATION FOR WATER.

No.

Munzu.

Pargana.

Canal.

Village-channel.

Name of owner of village-channel.

Name of applicant.

I, the undersigned, hereby apply for water from the above-named village-channel for the fields and crops below detailed and I engage to pay to the canal-officer, or other person duly authorized to receive them, the water-rates as prescribed by the Lieutenant-Governor¹ under the provisions of the Bengal Irrigation Act, and I further agree to abide by all the rule issued under that Act :—

No. of field in revenue map.	Acreage of field.	Crop to be grown.
—	—	—
—	—	—
—	—	—
—	—	—
—	—	—
—	—	—
—	—	—
—	—	—
—	—	—

Signature or mark of applicant.

Date_____

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Schedule C.)

SCHEDULE C.

(See section 75.)

PERMISSION TO TAKE WATER.

No.

Permit _____ of village _____ to take water from
 canal _____
 village-channel _____
 for the undermentioned fields and crops :—

No. of field.	Acreage of field.	Crops to be grown.	Water-rate dues.	Date of payment.

Signature of Canal-officer.

Date

BENGAL ACT 7 OF 1876

(THE LAND REGISTRATION ACT, 1876).

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BENGAL ACT 7 OF 1876

[THE LAND REGISTRATION ACT, 1876]¹.

(23rd August, 1876.)

An Act to provide for the registration of revenue-paying and revenue-free lands, and of the proprietors and managers thereof.

Whereas it is expedient to make better provision for the preparation and maintenance of registers of revenue-paying and revenue-free lands, and of the proprietors and managers thereof, and of certain mortgages of revenue-paying lands; It is hereby enacted as follows:—

Preamble.

PART 1.

PRELIMINARY.

1. This Act may be called the Land Registration Act, 1876. Short title.
(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. (Regulations repealed). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

3. In this Act, unless there be something repugnant in the subject or context,— Interpretation-clause.

(1) “Civil Court” means any Civil Court which is competent to hear and determine the matter with respect to which the words are used;

¹ LEGISLATIVE PAPERS.—For Report of Select Committee, see Calcutta Gazette, 1876, Pt. IV, p. 57; and for Proceedings in Council, see *ibid*, Supplement, 1876, p. 11; *ibid*, Supplement, pp. 42, 186, 616 and 829.

LOCAL EXTENT.—Since this Act contains no local extent clause, it must be taken to have been intended to extend to the whole of the former Province of Bengal.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

ANNOTATED REPRINT.—For an annotated reprint of this Act, see the Bengal Land Registration Manual, 1909, p. 6.

OTHER ENACTMENTS.—As to the registration of land, see also—

(1) the Bengal Revenue-free Lands (Non-Badshahi Grants) Regulation, 1798 (19 of 1798), ss. 24 and 26 to 28, in Vol. I of this Code.
(2) the Bengal Revenue-free Lands (Badshahi Grants) Regulation, 1798 (27 of 1798), ss. 19 and 21 to 23, in Vol. I of this Code.
(3) the Bengal Revenue-free Lands Regulation, 1800 (8 of 1800), s. 19, in Vol. I of this Code.
(4) the Bengal Land-revenue Sales Act, 1859 (11 of 1859), s. 38, in Vol. I of this Code, and
(5) the Bengal Land-revenue Sales (Amendment) Act, 1862 (Ben. Act 8 of 1862), *ante*, p. 1.
As to the registration of tenants' rights, see the Land Records Maintenance Act, 1896 (Ben. Act 8 of 1896), in Vol. III of this Code.
As to the effect of registration under the present Act, see the Bengal Tenancy Act, 1885 (8 of 1885), ss. 60, 98, 121, in Vol. I of this Code.

(Part I.—Preliminary.—Sec. 3.)

(2) "estate" includes—

- (a) any land subject to the payment of land-revenue, either immediately or prospectively, for the discharge of which a separate engagement has been entered into with Government;
- (b) any land which is entered on the revenue-roll as separately assessed with land-revenue (whether the amount of such assessment be payable immediately or prospectively), although no engagement has been entered into with Government for the amount of revenue so separately assessed upon it as a whole;
- (c) any land being the property of Government of which the Board shall have directed the separate entry on the general register hereinafter mentioned ¹[or on any other register prescribed for the purpose by rule made under this Act];

(3) "extent of interest" means the share or interest in an estate or revenue-free property of which the person with respect to whom the words are used is in possession as proprietor or manager;

(4) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity²;

(5) "local division" means a sub-division, *pargana*, *thana*, police division or jurisdiction, or other division according to which the *munzawár* register of the district is arranged;

(6) "Manager" means every person who is appointed by the Collector, the Court of Wards³ or by any Civil or Criminal Court to manage any estate or revenue-free property or any part thereof, and every person who is in charge of an estate or revenue-free property or any part thereof on behalf of a minor, idiot or lunatic, or on behalf of a religious or charitable foundation ⁴[or as a trustee or executor];

¹ These words in square brackets were added to s. 3 (c), for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 2 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 2 (1), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 6, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ For power of Court of Wards to appoint a manager, see the Court of Wards Act, 1879 (Ben. Act 8 of 1879), s. 20, *post*, p. 419.

⁴ These words in square brackets were added to clause (6), for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 2 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 2 (2), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

of 1876.]

(Part I.—Preliminary.—Sec. 3.)

¹(7) "*mauza*" means the area defined, surveyed and recorded as a distinct and separate *mauza* in—

- (a) the general land-revenue survey which has been made of the Province of Bengal, or
- (b) any survey made by the Government which may be adopted by notification in the Government Gazette, as defining *mauzas* for the purposes of this clause in any specified area;

and, where a survey has not been made by, or under the authority of, the Government, such area as the Collector may, with the sanction of the Board of Revenue,² by general or special order, declare to constitute a *mauza*;

(8) "proprietor" means every person being in possession of an estate or revenue-free property, or of any interest in an estate or revenue-free property, as owner thereof; and includes every farmer and lessee who holds an estate or revenue-free property directly from or under the Collector;

(9) "recorded proprietor" means any proprietor whose name, and the character and extent of whose interest in an estate or revenue-free property, stand registered in any general register now existing or hereafter to be made under this Act;

(10) "revenue-free property" means any land not subject to the payment of land-revenue which is included under one entry in any part of the general register of revenue-free lands;

(11) "section" means a section of this Act;

(12) "the Board" means the Board of Revenue of the Provinces for the time being subject to the Lieutenant-Governor of Bengal³;

(13) "the Collector" means the Collector of the district to which a register relates;

(14) "the district" means the district to which a register relates.

¹ This clause (7) was substituted for the original clause (7), for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 2 (3) in Vol. III of this Code. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

The original clause ran thus—

"(7) *mauza* includes every village, hamlet, *tolga* and other similar sub-division of land commonly in use in any district, by whatever name such sub-division may be known."

² Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 3, in Vol. I of this Code.

³ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

⁴ Now the Board of Revenue for Bengal.

[Ben. Act 7

(Part II.—Of the Registers to be kept up by the Collector.—
Secs. 4-7.)

PART II.

OF THE REGISTERS TO BE KEPT UP BY THE COLLECTOR.

Collector to
keep registers.

4. The Collector of every district shall prepare and keep up the following registers:—

A.—A general register of revenue-paying lands.

B.—A general register of revenue-free lands.

C.—A *manuzawár* register of all lands revenue-paying and revenue-free.

D.—An intermediate register of changes affecting entries in the general and *manuzawár* registers.

Forms,
language,
character and
arrangement
of registers.

5. The registers shall be written in such forms, languages and character, and shall be arranged in such manner not being inconsistent with the provisions of this Act, as the Board from time to time may direct¹ for each district.

* * * * *

General re-
gister of reve-
nue-paying
lands.

6. The general register of revenue-paying lands shall consist of two parts:—

Part I.—Book of estates borne on the revenue-roll of the district.

Part II.—Book of lands situated in the district appertaining to estates borne on the revenue-rolls of other districts.

Part I of
general regis-
ter.

7. In Part I of the general register of revenue-paying lands shall be entered the name of every estate which is borne on the revenue-roll of the district, and the following particulars relating to every such estate:—

(a) name of the estate;

(b) number of the estate on the revenue-roll of the district, and the annual amount of revenue for which it is liable;

(c) names and addresses of the proprietors, managers and mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee;

(d) name of every local division in which any lands of the estate are situated, whether in the district or in

¹ For a list of orders made under s. 5 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² The second paragraph of s. 6 was repealed, in Western Bengal, by the Bengal Land Registration (Amendment) Act (Ben. Act 2 of 1906), s. 16 (a), and, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 16 (a). The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II. The said paragraph ran thus:—

"The entries in each Part of the general registers shall be numbered in one consecutive series for the whole district, and shall follow one alphabetical arrangement, running from the beginning to the end of the Part."

of 1876.]

(Part II.—Of the Registers to be kept up by the Collector.—
Sec. 8.)

any other district. with specification under each local division of—

- (i) the number of *manzas* containing such lands.
- (ii) the name of each *manza*,
- (iii) the number which each *manza* bears under the local division in the *manzawár* register, and
- (iv) the area of land appertaining to the estate which each *manza* contains, if ascertained by survey or other authentic measurement;

¹(e) reference to entries made in the intermediate register after the preparation of the general register.

8. In Part II of the general register of revenue-paying lands shall be entered the name of every estate which comprises lands situated in the district but which is borne on the revenue-roll of some other district, and the following particulars relating to every such estate:—

Part II of
general register.

- (a) name of the estate;
- (b) name of the district on the revenue-roll of which the estate is borne, with the number which the estate bears on that roll, the annual amount of revenue for which it is liable,² [and the number which the estate bears in Part I of the general register of revenue-paying lands for its own district];
- (c) names and addresses of the proprietors, managers or mortgagees of the estate, with the character and extent of the interest of each proprietor, manager and mortgagee;
- (d) name of every local division of the district to which the register relates, in which any lands of the estate are situated, with a specification under each local division of—
 - (i) the number of *manzas* containing such lands,
 - (ii) the name of each *manza*,
 - (iii) the number which each *manza* bears under the local division in the *manzawár* register of the district, and

¹ Clause (e) of s. 7 was repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (2), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 16 (2), respectively, in districts in respect of which any order is issued under any clause of s. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act 1914 (Ben. Act 1 of 1914) s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

² These words in square brackets in s. 8 were repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (3), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 16 (3), respectively, in districts in respect of which any order is issued under clause (a) or clause (b) of s. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

[Ben. Act 7]

(Part II.—Of the Registers to be kept up by the Collector.—
Secs. 9, 10.)

(iv) the area of land appertaining to the estate which each *mauza* contains, if ascertained by survey or other authentic measurement;

¹(e) reference to entries made in the intermediate register after the preparation of the general register.

General
register of
revenue-free
lands.

9. The general register of revenue-free lands shall consist of three parts—

Part I.—Book of lands held exempt from revenue in perpetuity.

Part II.—Book of lands occupied for public purposes without payment of revenue.

Part III.—Book of unassessed waste-lands and other lands not included in Part I or Part II of the general register of revenue-free lands.

Part I of
general
register of
revenue-free
lands.

10. In Part I of general register of revenue-free lands shall be entered

all lands held under *badshahi hukami* and other *lakhiraj* grants which have been declared to be valid by competent authority,

all lands in which the Government has conferred a proprietary title free in perpetuity from any demand on account of land-revenue, in consideration of the payment of a capitalized sum, or for any other reason, and

any lands of which the Board, on a full report of the circumstances of the case, shall have sanctioned the entry in this Part of such register.

Part I of such register shall, as far as possible, contain the following particulars in respect of each entry:—

(a) name of the revenue-free property, with the character of the tenure, whether *jagir*, *altamgha*, *debottar*, *bishunpirit*, purchased revenue-free, redeemed or otherwise;

(b) date of the grant or title being conferred;

(c) nominal area granted;

(d) names of the grantor and original grantee;

(e) reference to any decree or other order of competent authority declaring or recognizing the grant to be valid;

(f) names and addresses of the proprietors and managers of the revenue-free property, with the character and extent of the interest of each proprietor and manager;

¹ Clause (e) of s. 8 was repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (2), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 16 (2), respectively, in districts in respect of which any order is issued under any clause of s. 19 A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

of 1876.]

(Part II.—Of the Registers to be kept up by the Collector.—
Secs. 11, 12)

- (g) name of every local division in which any land appertaining to the property is situated, whether in the district or in any other district, with specification under each local division of—
 - (i) the number of *mauzas* containing such land,
 - (ii) the name of each *mauza*.
 - (iii) the number which each *mauza* bears under the local division in the *mauzawár* register, and
 - (iv) the area of land appertaining to the revenue-free property which the *mauza* contains if ascertained by survey or other authentic measurement, with specification of the number of each field according to the papers of such measurement;
- (h) reference to the entries in earlier registers relating to the property or any part thereof;
- (i) reference to entries made in any intermediate register after the preparation of the general register.

11. In Part II of the general register of revenue-free lands shall be entered all lands which are occupied by the Government, or by any public body, for public purposes, and on account of which no land-revenue is demanded.

Part II of
general
register of
revenue-free
lands.

It shall contain the following particulars:—

- (a) area of the land comprised in each entry;
- (b) names of the local divisions and *mauzas* in which the lands are situated, with area in each *mauza* and a reference to the number under which each *mauza* is entered in the *mauzawár* register of the local division;
- (c) name of the department of Government or of the public body by which the land is occupied;
- (d) the purpose for which it is occupied;
- (e) the date and particulars of the appropriation of the land to such purpose;
- (f) reference to entries in the intermediate register made after the preparation of the general register.

12. In Part III of the general register of revenue-free lands shall be entered all waste and other lands (not being included in any other part of the general register) which are not assessed to land-revenue. It shall contain the following particulars:—

Part III of
general
register of
revenue-free
lands.

- (a) name and number of the lot, or other particulars identifying the property;
- (b) area comprised in each entry;

[Ben. Act 7]

(Part II.—Of the Registers to be kept up by the Collector.—
Secs. 13-15.)

- (c) name of every local division and *mauza* in which lands of the property are situated, with area in each *mauza*, and a reference to the local division and number under which each *mauza* is entered under the local division on the *mauzawár* register;
- (d) reference to entries in the intermediate register made after the preparation of the general register.

Board may direct that three last sections shall not apply to any district.

13. If it shall appear to the Board that the circumstances of any district are such,¹ [or that, in consequence of the preparation of a record-of-rights, or for any other reason, the circumstances of any district or part of a district are so altered,] that it is not desirable or practicable to prepare² [or re-write or maintain] the register of revenue-free lands in the manner described in the three last preceding sections,

the Board may direct³ that the said sections shall not apply to such district, and may lay down rules, not being inconsistent with the provisions of this Act, in respect of the registration of revenue-free lands and of the proprietors and managers thereof:

Provided that such rules shall require the registration of the name of one or more persons as liable for the discharge of the duties and obligations referred to in section 68 in respect of all lands which under such rules may be registered as separate revenue-free properties.

Such rules, when they shall have been sanctioned by the Lieutenant-Governor⁴ and published in the Calcutta Gazette and otherwise locally as the Lieutenant-Governor⁴ may order, shall, from such date as the Lieutenant-Governor⁴ may direct, have the same force as if they were included in this Act.

Purpose of *mauzawár* register.

14. The *mauzawár* register shall be kept up for the purpose of showing, in a connected form, the *mauzas* situated in each local division, and the lands, whether revenue-paying or revenue-free, of which each *mauza* consists.

Mauzawár register to be arranged according to local divisions.

15. The *mauzawár* register shall be arranged and divided according to sub-divisions, *parganas*, *thanas*, police-jurisdic-

¹ These words in square brackets in s. 13 were inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 3 (1), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 3 (1), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

² These words in square brackets in s. 13 were inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 3 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 3 (2), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

³ For a list of orders made under section 13 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 4, Pt. VI.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

of 1876.]

(Part II.—Of the Registers to be kept up by the Collector.—
Secs. 16, 17.)

tions, or such other local divisions of the district as the Board may from time to time direct for each district; the entries of *mauzas* shall have a separate series of consecutive numbers¹ [for each local division, and shall be so arranged as the Board² may direct.]

The *mauzawár* register shall contain the following particulars :—

- (a) name of the *mauza* ;
- (b) total area of *mauza*, if ascertained by survey or other authentic measurement, with a reference to the authority for the entry ;
- (c) name of every estate or revenue-free property to which any of the lands of the *mauza* appertain, with a reference to the entry of each on the general register, and a specification of the area of land in the *mauza* which appertains to each, if ascertained by survey or other authentic measurement, with a reference to the authority for such entry ;
- (d) gross rental of the area of land in the *mauza* which appertains to each estate or property, if such rental has been ascertained during management of the lands by the Collector or by other authentic means, with a reference to the authority for the entry ;
- (e) reference to entries made in intermediate registers after the preparation of the *mauzawár* register.

16. Intermediate registers shall be kept up for the purpose of recording therein from time to time changes affecting the entries which stand in the general and *mauzawár* registers, so that by a reference to them, in connection with those registers, correct information up to date on the points recorded may be obtained at any time ; also for the purpose of keeping together, as far as possible, in a convenient form, the information which will eventually be required for re-writing the general and *mauzawár* registers. Intermediate registers.

17. The intermediate register shall consist of two parts, as follows :— Division of intermediate register.

Part I.—Book of changes affecting entries relating to revenue-paying lands.

¹ These words in square brackets in s. 15 were substituted for the words "and a separate alphabetical arrangement for each local division," for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 4, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 4, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

² Now the Board of Revenue for Bengal, see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8 and Sch. D, Item 8, in Vol. I of this Code.

³ As the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

(Part II.—Of the Registers to be kept up by the Collector.—
Secs. 18, 19.)

Part II.—Book of changes affecting entries relating to
revenue-free lands.

Particulars
of Part I of
intermediate
register.

18. In Part I of the intermediate register shall be recorded, in a convenient form, all changes in the names of proprietors, managers and (so far as this Act requires) mortgagees, and in the character or extent of the interest of each such proprietor, manager and mortgagee, and such other changes affecting any entry standing in the general register of revenue-paying lands, or any entry in the *mauzawār* register relating to revenue-paying lands as cannot conveniently be entered against such entry in the general or the *mauzawār* register. It shall contain the following particulars:—

- (a) name of the estate affected, with references to ¹[the number it bears on the general register of revenue-paying lands,] the number it bears on the revenue roll, and the amount of revenue for which it is liable;
- (b) references to previous entries in the intermediate register relating to the estate;
- (c) particulars of the change, with a reference to the authority under which it is made;
- (d) the numbers borne by the entries¹[in each Part of the general register of revenue-paying lands, and] under each local division in the *mauzawār* register which are affected by the change here recorded.

Particulars of
Part II of
intermediate
register.

19. In Part II of the intermediate register shall be recorded all changes in the names of proprietors and managers of revenue-free properties, and in the character and extent of interest of each such proprietor and manager, and such other changes affecting any entry standing in the general register of revenue-free lands, or any entry relating to revenue-free lands in the *mauzawār* register, as cannot conveniently be entered against such entry in the general or the *mauzawār* register. It shall contain the following particulars:—

- (a) name and character of the revenue-free property to which the lands appertain, and number which it bears in any part of the register of revenue-free lands;
- (b) reference to previous entries in the intermediate register relating to the property;

¹ These words in square brackets in s. 18, clauses (a) and (d), were repealed by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (3), and the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. 1 of 1907), s. 16 (3), respectively, in districts in respect of which any order is issued under clause (a) or clause (b) of s. 19A of the present Act. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. 17, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. 11.

of 1876.]

(Part II.—Of the Registers to be kept up by the Collector.—
Secs. 19A, 19B.)

- (c) particulars of the change, with a reference to the authority under which it is made;
- (d) the numbers borne by the entries in the general register and under each local division in the *manuzawár* register which are affected by the change here recorded.

¹ 19A. Notwithstanding anything contained in other sections of this Act, the Board² may from time to time, by written order, direct, in respect of all or any districts,—

Power or Board to issue orders as to record of matters required to be entered in Register A or Part I of Register D.

- (a) that all matters required by this Act to be entered in the general register of revenue-paying lands and Part I of the intermediate register, respectively, shall be entered in a combined register to be prescribed by the Board,³ instead of in the aforesaid registers, or
- (b) that all matters required by this Act to be entered in the general register of revenue-paying lands shall be entered in Part I of the intermediate register instead of in the general register of revenue-paying lands, or
- (c) that all matters required by this Act to be entered in Part I of the intermediate register shall be entered in the general register of revenue-paying lands instead of in the intermediate register.

Explanation.—An order issued under this section may merely direct the entry of matters in some register other than that prescribed for the purpose by other sections of the Act. It may not prohibit the record of matters which are required by the Act to be recorded.

³ 19B. All provisions of this Act (other than section 19A) as to the maintenance of registers, as to the entry of matters in any particular register or in any particular Part of any register, and as to other matters relating to registers, shall be read subject to any orders issued by the Board⁴ under section 19A and for the time being in force.

Act to be read subject to orders so issued.

¹ This s. 19A was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), s. 5, in Vol. III of this Code. This Act was extended to Western Bengal by Ben. Act I of 1914, s. 4, Sch. II.

² Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act 1912 (7 of 1912), s. 3, and Sch. D, item 3, in Vol. I of this Code.

³ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

⁴ Section 19B was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 6, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act I of 1907), s. 5, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

(*Part III.—Of the Preparation and Maintenance of the Registers.—Secs. 20-23.*)

PART III.

OF THE PREPARATION AND MAINTENANCE OF THE REGISTERS.

Old registers
to be in force
till new
registers
prepared.

20. Until the registers by this Act directed to be prepared are so prepared the existing registers now kept up in the office of every Collector shall be deemed to be the registers kept up under this Act, that is to say,

the existing general register of revenue-paying estates shall be deemed to be the general register of revenue-paying lands;

the existing *pargana* register (Part II) of revenue-free lands shall be deemed to be the general register of revenue-free lands and the *mauzawār* register in respect of revenue-free lands:

the existing *pargana* register (Part I) of revenue-paying lands shall be deemed to be the *mauzawār* register in respect of revenue-paying lands;

the existing register of intermediate mutations shall be deemed to be the intermediate register of changes affecting entries in the general and *mauzawār* registers;

and all the provisions of this Act shall, as far as possible, be deemed to be applicable to such registers and to the registration therein of the names and interests of proprietors, managers and mortgagees.

How registers
to be prepared.

21. The first general registers and the first *mauzawār* register under this Act shall be prepared for each district at such time as the Board may direct from the entries in the existing registers mentioned in the last preceding section, and from any other authentic information available to the Collector.

Board may
order new
registers to
be prepared.

22. The Board may order new registers to be prepared whenever it may think fit, and such registers shall be prepared from the registers existing at the time of such order, and from the entries of subsequent changes in the intermediate registers, and from any other authentic information available to the Collector; and such additions to, omissions from, and alterations in, the entries as they appeared in the previous registers shall be made as subsequent changes have rendered necessary, and the authority for every change shall be expressly referred to.

Entry of
estate on Part
of general
register.

23. Whenever, after the preparation of the general registers, it may be necessary to bring any estate or revenue-free property on to any Part of such registers on which such estate or property is not already borne, such estate or property shall be at once brought on to such Part under a new number in continuation of the last number already borne on such Part;

of 1876.]

(Part III.—Of the Preparation and Maintenance of the Registers.—Secs. 24-26.)

24. Whenever, after the preparation of the *mauzawár* register, it shall be necessary to enter any *mauza* under any local division of such register under which it is not already borne, such *mauza* shall be at once brought under the proper local division with a new number in continuation of the number borne by the last entry under such local division; and a note referring to such entry shall be made in the place in the *mauzawár* register in which such estate or property would have appeared according to ¹[the arrangement directed under section 15].

Entry of *mauza* under local division of *mauzawár* register.

25. (Order of entries under two preceding sections). *Rep., in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (c), and, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 16 (c).*

26. After the general register of revenue-paying lands shall have been prepared, a note shall from time to time be made on such register against the estate affected—

Note to be made on general register.

of every alteration which may be ordered by competent authority in the amount of revenue assessed on any estate;

of every partition of an estate into two or more estates;

of every change involving the removal of an estate from the part of the register on which it is borne;

of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the register;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand in the register may be recorded in Part I of the intermediate register, as provided in section 18, and a reference shall be made in the general register against the estate affected to every entry

¹ The words and figures "and a note referring to such entry shall be made in the place in the general register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section 5" were repealed, in Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 16 (b), and, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 16 (b), and are omitted. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

² These words in square brackets in s. 24 were substituted for the words "the alphabetical arrangement mentioned in section 15", for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 6, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 6, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

*(Part II.—Of the Preparation and Maintenance of the
Registers.—Secs. 27-29.)*

which may be made in the intermediate registers recording any such change.

Note on
general
register of
revenue free
lands.

27. After the general register of revenue-free lands shall have been prepared, a note shall from time to time be made on such register against the property affected—

- of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority ;
- of every partition of a revenue-free property into two or more properties ;
- of every change involving the removal of a revenue-free property from the part of the register on which it is borne ;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand on the register may be recorded in Part II of the intermediate register as provided in section 19.

Collector,
after inquiry,
may make
change in
register.

28. Whenever it shall come to the notice of the Collector that any change has occurred which affects any entry in his registers, and renders necessary any alteration therein, the Collector, after making such inquiry as may be necessary, shall make such alteration :

Provided that notice shall be given to the recorded proprietors and managers of any estate or revenue-free property before any change is made in any way affecting such estate or property, and to every person whose name the Collector is about to register as proprietor or manager of any estate or revenue-free property, before such registration is affected ; and any objections, which may be made to the proposed change or registration shall be duly considered by the Collector before he orders such change or registration to be made.

¹[The notice required under this section shall be served in the manner prescribed by section 50.]

When
Collector may
order name of
proprietor to
be struck out
of register.

29. Whenever it shall appear to the Collector, in the course of an inquiry made in respect of an application under section 38 or section 42 or otherwise that any person whose name is recorded in the general register as proprietor or manager, or joint-proprietor or joint-manager, of an estate or revenue-free property, is no longer in possession of any interest in such estate or property as proprietor or manager, and that

¹ These words in square brackets were added to s. 28, for Western Bengal, by the Bengal Land Registration (Amendment) Act, s. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 7, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

of 1876.]

(Part III.—Of the Preparation and Maintenance of the Registers.—Sec. 30.)

the names of other persons have been recorded as proprietors or managers of every portion of the interest in respect of which such proprietor's or manager's name was borne on the register,

the Collector may order the name of such person to be struck out from among the recorded proprietors or managers of such estate or property and, if required, may grant him a certificate to that effect.

30. To enable the Collector more effectually to maintain his registers,—

Information
to be supplied
to Collector.

(a) whenever any competent authority may direct that any estate be transferred from the revenue-roll of one district to that of another, the Collector of the district from the revenue-roll of which the estate is to be transferred shall transmit to the Collector of the district to the revenue-roll of which the transfer is to be made a copy of all entries in any of the registers relating to the estate to be so transferred, and entries taken from such copy shall be made in the proper registers of the district to which the transfer is made;

(b) whenever the Collector of any district shall make an entry, or any alteration of any entry, in his registers, which will affect any entry required to be made under this Act in any register of another district, such Collector shall transmit to the Collector of such other district copy of such entry as made or as altered, and the Collector to whom such copy is transmitted shall cause the necessary entries, or alteration of entries, to be made in the registers of his district:

(d) every proprietor and manager of an estate or revenue-free property, and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Collector,

to furnish any information required by the Collector for the '[entry of matters directed to be entered in any register prescribed by this Act or by any rule or order thereunder], or

to show to the satisfaction of the Collector that it is not in his power to furnish the required information.

Such requisition shall be made by a notice to be served in the manner prescribed by section 50, requiring the production of such information before a date mentioned in such notice.

¹ Clause (c) of s. 80 was repealed, in Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 16 (d), and is omitted. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

² These words in square brackets were substituted for the words and figures "purpose of preparing, making or correcting any entry of the particulars specified in s. 7, 8, 10, 11, 12 or 15" for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 8 (7). This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

(Part III.—Of the Preparation and Maintenance of the Registers.—Secs. 31, 32.)

¹ (e) whenever any minor, disqualified proprietor or other beneficiary, whose name has been recorded in any register along with that of a guardian or manager, lawfully assumes direct charge of his estate, he shall within six months give notice to the Collector and apply for correction of the register by removal therefrom of the name of such guardian or manager.

Penalties for
not giving
notice or
furnishing
information.

31. Whoever, being bound * * * under clause (d) of ² [section 30] to furnish any information required by the Collector, ⁴ [or under clause (e) of the said section to give notice of his having assumed direct charge of an estate], shall voluntarily or negligently omit to give such notice or furnish such information, or to show to the satisfaction of the Collector that it is not in his power to furnish such information,

shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission;

and the Collector may impose such further daily fine as he may think proper, not exceeding fifty rupees, for each day during which such person shall omit to furnish the information required under clause (d) after a date to be fixed by the Collector in a notice warning the person required to furnish such information that such further daily fine will be imposed.

Such notice shall be served in the manner prescribed by section 50, and the date fixed by such notice shall not be less than 15 days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending :

Provided that, whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

When
register
may be
altered on
order of
Civil Court.

32. Whenever any Civil Court makes a decree confirming any transfer of proprietary possession which has already been made in any estate or revenue-free property, or gives

¹ This clause (c) was added to s. 30, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 8 (2), in Vol. III of this Code. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

² The words "by clause (c) of the last preceding section to give notice to the Collector of the establishment of any new village, or" in section 31, which were repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, are omitted.

³ The words and figures "section 40" were substituted for the words "the said section" by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. III, in Vol. III of this Code.

⁴ These words in square brackets were inserted in s. 31, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 9, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 9, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

of 1876.]

(Part III.—Of the Preparation and Maintenance of the Registers.—Secs. 33-35.)

effect to any decree transferring any such possession, such Court may order the transfer to be registered in the registers of the Collector, and the Collector shall register such transfer accordingly.

33. All lands which are held without payment of rent, not being a revenue-free property entered in the general register of revenue-free lands as prescribed by sections 10, 11 or 12, and not being a part of any such property, shall, for the purposes of this Act, be deemed to be a part of the estate within the local boundaries of which they are included; and, if they are not included within the local boundaries of any one estate, then to be a part of such neighbouring estate as the Collector shall, by an order under his seal and signature, declare.

Lands held without payment of rent deemed to be part of certain estates.

34. Whenever it shall appear to the Collector that any lands which are not included in any estate as entered in the existing general register should be included in any such estate for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands, to be served in the manner prescribed by section 50, and a general notice to be published, as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may think fit to allow.

Collector may include any lands in an estate.

After the expiration of the said month or other period, the Collector shall proceed to inquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said estate for the purposes of this Act.

35. Whenever it shall appear to the Collector that any land which is not entered on the general register as a separate revenue-free property should be entered on the register as such property, he may cause a notice to be served in the manner prescribed by section 50, calling on the person in possession of such land as proprietor or manager to show cause why such land should not be so registered as a revenue-free property:

Collector may register lands as a revenue-free estate and call on proprietor to apply for registration.

and if, after hearing any objections (which may be preferred within a month of the service of the said notice, or such longer period as the Collector may think fit to allow), and after making such further inquiry as may be necessary, the Collector shall be of opinion that the land should be so registered, he shall enter such land on the general register as a revenue-free property;

and by a notice served as prescribed in section 50, as well as by general notice published as prescribed in section 49, shall require every proprietor and manager of such revenue-free

(Part III.—Of the Preparation and Maintenance of the Registers.—Secs. 36, 37.)

property to apply for registration of his name and of the character and extent of his interest as such proprietor or manager;

and thereupon every such proprietor and manager shall be deemed, for the purposes of section 68, to be a person who is required by this Act to apply for the registration of his name; and all the provisions of Part IV of this Act, so far as may be practicable, shall apply to every such person:

Provided that no such proprietor or manager shall be liable to any fine under section 65 until after the expiration of three months from the date on which the last-mentioned notice shall have been served:

Provided, also, that no land shall be entered as a revenue-free property in Part I of the general register of revenue-free lands until the circumstances of the case shall have been reported to the Board¹, and until the Board¹ shall have sanctioned such entry.

Board to decide what lands to be included in each revenue-free property.

36. The Board¹ may decide what revenue-free lands shall be included in each revenue-free property to be registered as such under this Act, and may from time to time direct that lands which are borne on the register as forming one revenue-free property shall be divided and entered on the register as forming two or more such properties; and may similarly direct that revenue-free lands which are borne on the register as forming two or more revenue-free properties shall be united and entered as forming one revenue-free property.

The Board¹ may also direct that any lands which are improperly borne upon the general register of revenue-free lands shall be removed from such register, or shall be omitted from any new register of such lands which may be prepared.

Collector may serve notice for inclusion of lands in revenue-free property.

37. Whenever it shall appear to the Collector that any land which is not included in any revenue-free property entered in the existing general register should be included in any such property for the purposes of this Act, the Collector may cause a notice to be served on the person believed to be in possession of such lands in the manner prescribed by section 50, and a general notice, to be published as prescribed by section 49, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may allow.

At the expiration of the said month or of such period, the Collector shall proceed to inquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said property for the purposes of this Act.

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (*Ben. Act 2 of 1918*).

of 1876.]

(Part IV.—Of the Registration and Mutation of Names—
Secs. 38-40.)

PART IV.

OF THE REGISTRATION AND MUTATION OF NAMES.

¹ **38.** Every proprietor of an estate or revenue-free property or of any interest therein, respectively, being in possession of such estate, property, or interest at the commencement of this Act,²

Proprietor and manager to register within specified time.

every joint proprietor of an estate or revenue-free property being in charge of such estate or property or of any interest therein, respectively, on behalf of the other proprietors thereof, at the commencement of this Act,³

and every person being manager of an estate or revenue-free property, or of any interest therein, respectively, on behalf of a proprietor thereof, at the commencement of this Act,⁴

shall, if his name and the character and extent of his interest have not already been registered, make application, in the manner hereinafter provided, for the registration of his name and of the character and extent of his interest as such proprietor or manager to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by the Collector to receive such application within such time as the Lieutenant-Governor may fix as hereinafter provided.

¹ **39.** The Lieutenant-Governor shall, within six months from the commencement of this Act,⁵ fix⁶ for each district the date or dates before which such proprietors and managers, being in possession of estates or revenue-free properties, or of any interest therein, respectively, at the commencement of this Act,⁷ shall be required to apply for registration of their names and of the character and extent of their interests, under the list preceding section; and may at any time alter any date so fixed, provided that no date so fixed shall be later than five years after the said commencement.

Lieutenant-Governor may fix date before which proprietor and manager must apply for registration.

¹ **40.** The Lieutenant-Governor may in any district, for the purposes of the last preceding section, fix⁸ different dates in respect of estates and revenue-free properties, or in respect of different classes of estates and revenue-free properties, or in respect of different portions of the district:

Lieutenant-Governor may fix different dates in respect of different estates.

Provided that no person shall incur any penalty or disability under this Act for failure to apply for registration of his name as such proprietor or manager as aforesaid until after the lapse of six months from the date on which the notice.

¹ Sections 38 to 40 are obsolete.

² i.e., the 29th August, 1876.

³ For orders made under ss. 39 and 40 for Bengal, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part IV.—Of the Registration and Mutation of Names.—
Secs. 41, 42.)

prescribed by the next succeeding section shall have been published in respect of his estate or property, or in respect of the class of estates or revenue-free properties within which his estate or property falls, or in respect of the portion of the district in which his estate or revenue-free property is situated.

Publication of
date fixed by
Lieutenant-
Governor.

41. Every date fixed by the Lieutenant-Governor as provided in the two last preceding sections shall be published by a notice in the Calcutta Gazette;

and also by notices to be posted up

at the Court or office of the Judge, the Magistrate and the Collector of the district, in respect of which such date is fixed;

at the Court or office of every Munsif, Sub-divisional Officer and Sub-Registrar of Assurances in such district;

and at every police-station in such district;

and by proclamation to be made by beat of drum at the head-quarters of such district, and in every place in which a Sub-divisional office is situated, and in such other places as the Lieutenant-Governor may direct.

The officer in charge of every Court, office and police-station at which a notice is required to be posted up under this section shall certify to the Collector the date on which the notice was so posted up at his Court, office or police-station; and the latest date so certified shall be deemed to be the date of publication of the notice for the purposes of the two last preceding sections.

Person suc-
ceeding to pro-
prietary right
in, or manage-
ment of,
estates to give
information
within six
months.

42. Every person succeeding, after the commencement of this Act¹, to any proprietary right in any estate or revenue-free property, whether by purchase, inheritance, gift or otherwise;

every joint proprietor of an estate or revenue-free property assuming charge after such commencement of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof;

and every person assuming charge after such commencement of any estate or revenue-free property, or of any interest therein respectively as manager.

shall, within six months from the date of such succession or assumption of charge, make application in the manner herein-after provided to the Collector of the district on the general register of which such estate or property is borne, or to any other officer who may have been empowered by such Collector to receive such applications, for registration of his name and of the character and extent of his interest as such proprietor or manager.

¹ Section 41 is obsolete.

² i.e., the 23rd August, 1876.

of 1876.]

(Part IV.—Of the Registration and Mutation of Names.—
Secs. 43-48.)

43. Notwithstanding anything contained in section 38 or the last preceding section, the Lieutenant-Governor¹ may in any district exempt proprietors and managers of all or any estates which are liable to pay less than twenty rupees of land revenue annually, and proprietors and managers of all or any revenue-free properties which consist of less than fifty acres of land from the obligations imposed by this Act in respect of applying for registration of their names, and may at any future time withdraw such exemption and require such proprietors and managers to register their names.

Lieutenant-Governor may exempt proprietors from obligations imposed by Act.

44. Every person who holds a mortgage of any proprietary right in any estate may apply to the Collector for registration of his name as such mortgagee, and of the interest in respect of which he is such mortgagee, and in such application shall specify whether he or the mortgagor is in possession. On receipt of such application the Collector shall proceed, as far as possible, according to the manner hereinafter prescribed in respect of applications for registration as proprietor.

Mortgagee may apply for registration.

45. Any application for registration under this Act may be presented by the applicant or by some person duly authorized by him in that behalf.

Presentation of application.

46. If the applicant under section 38 or section 42 is a joint proprietor in charge as aforesaid, or a manager, he shall in his application specify the name of the person or persons on behalf of whom he is in such charge, or on behalf of whom he is manager, and the character and extent of the interest of every such person.

Manager to specify extent of interest of each person for whom he manages.

47. If the application under section 38 or section 42 be for registration of the name of the applicant as manager appointed by the Collector, the Court of Wards,² or by any Civil or Criminal Court, the Collector shall register the name of the applicant on proof being produced to his satisfaction that the applicant has been so appointed to be such manager.

Collector who to register applicant for registration as manager appointed by authority.

48. If the application be for registration otherwise than as manager appointed as mentioned in the last preceding section, and if it sets forth circumstances which would justify the Collector in registering the name of the person whose name is required to be registered, or if after further inquiry the Collector considers that such circumstances exist, he shall issue a notice requiring all persons who object to the registration of the name of the person whose name is required to be registered, or who dispute the character or extent of the interest in respect of which it is required to be registered, to give in a written statement of their objections, and to appear on a day to be

Notice to objectors.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For power of Court of Wards to appoint a manager, see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), s. 20, *post*, p. 418.

(Part IV.—Of the Registration and Mutation of Names.—
Secs. 49-52.)

specified in such notice, not being less than one month from the date of the publication thereof.

Publication of
notice.

49. Such notice shall be published by affixing a copy of the same on or at all the following places:—

- (a) the *zamindari cutcherry* (if any) of the estate or other place at which the rents are ordinarily received;
- (b) some conspicuous place in at least one village appertaining to the estate to which, the application relates, and if the estate comprises lands situated in more than one local division, then in at least one village in each local division containing such lands;
- (c) the office or Court of every Collector, Sub-divisional Officer, Judge and *Munsif* within whose jurisdiction, and every police-station within the jurisdiction of which any of the lands to which the application relates are known to be situated.

Notice to
transferor.

50. If the application alleges that the applicant has acquired possession of the interest in respect of which he applies to be registered by transfer from any living person, a copy of such notice shall be served on the alleged transferor by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family; or, in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

No fees or other costs shall be payable by the applicant in respect of the service or publication of the notice prescribed by this and the last preceding section.

Effect of
irregularity
in publication
or service of
notice.

51. No irregularity or omission in the publication or service of notice as required by the three last preceding sections shall affect the validity of any proceedings under this Act, unless it is proved to the satisfaction of the Collector that some material injury was caused by such irregularity or omission.

Inquiry by
Collector.

52. On the day fixed in the notice issued under section 48, or as soon thereafter as possible, the Collector shall consider any objections which may be advanced, and make such further inquiry as appears necessary to ascertain the truth of the alleged possession of, succession to, or transfer of, the estate, revenue-free property, or interest therein, in respect of which registration is applied for;

of 1876.]

(Part IV.—Of the Registration and Mutation of Names.—
Secs. 53, 53A.)

and if it appears to the Collector that the possession exists,

or that the succession or transfer has taken place, and that the applicant has acquired possession in accordance with such succession or transfer,

but not otherwise,

the Collector shall order the name of the applicant to be registered in the proper registers as proprietor or manager of the said estate, revenue-free property or interest therein:

Provided that any person to whom any proprietary right in an estate has been mortgaged may be registered as mortgagee, whether he be in actual possession or otherwise.

53. For the purpose of the inquiry mentioned in the last preceding section, and of every inquiry held under this Act, ¹[and subject to the provisions of sections 640 and 641 of the Code of Civil Procedure],² the Collector may summon and enforce the attendance of witnesses ³[and any applicant or his agent] and compel them to give evidence, and compel the production of documents, by the same means, and, as far as possible, in the same manner, as is provided ⁴[in respect of witnesses] by the Code of Civil Procedure.⁵

Power to summon witnesses and compel production of documents.

53A. The evidence of every person examined by the Collector in any inquiry from which an appeal lies under this Act shall be recorded in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure.⁷

Record of evidence in inquiries.

¹ These words in square brackets in s. 53 were inserted, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 10 (a), in Vol. III of this Code. This Act was extended to Western Bengal by Ben. Act 1 of 1914, s. 4, Sch. II.

² This reference should now be taken to be made to ss. 132 and 133 of the Code of Civil Procedure, 1908 (5 of 1908)—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ These words in square brackets in s. 53 were inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 10 (a), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 10 (b), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

⁴ These words in square brackets in s. 53 were substituted for the words "in the case of a Civil Court" for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 10 (b), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 10 (c), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

⁵ Act 28 of 1861 was repealed and re-enacted by Act 10 of 1877, which was repealed and re-enacted by Act 14 of 1882. The latter Act has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁶ Section 58A was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 11, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 11, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

⁷ Act 14 of 1882 was repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

14 of 1882.

28 of 1861.

14 of 1882.

(Part IV.—Of the Registration and Mutation of Names.—
Secs. 54-57.)

Payment of
costs.

54. All costs of any inquiry or proceeding held before the Collector under this Act shall, except as provided in section 50, be payable by the parties concerned; and the Collector may pass such orders as he shall think fit in respect of the payment of such costs.

Dispute as
to possession,
succession or
acquisition by
transfer.

55. ¹[If the applicant's possession of, succession to, or acquisition by transfer of, the extent of interest in respect of which he has applied to be registered is disputed by, or on behalf of, any person making a conflicting claim in respect thereof, and if it is not proved to the satisfaction of the Collector that any person is in possession of the interest in dispute, the Collector shall determine summarily the right to possession of the same, and shall deliver possession accordingly, and shall make the necessary entry in the registers;]

or if, in the opinion of the Collector, the dispute be one which can more properly be determined by a Civil Court, the Collector shall refer the matter in dispute to the principal Civil Court of the district for determination as hereinafter provided:

Provided that if the applicant's possession of any extent of interest in accordance with his application be not disputed, or if such possession be proved to the satisfaction of the Collector, the Collector may register the said applicant's name in respect of such extent of interest, and may at the same time make a reference, as hereinafter provided, to the Civil Court for determination of any dispute as to any further extent of interest in respect of which the applicant has applied to be registered, but in respect of which the right of the applicant to be registered is disputed, and is not proved to the satisfaction of the Collector.

In cases of
disputed
possession,
etc., Collector
may appoint
receiver.

56. In any case of disputed possession of, succession to, or acquisition by transfer of, the extent of any interest in respect of which application is made under the last preceding section, the Collector may appoint a receiver to collect the rents of the extent of interest in dispute, and from the sums so collected shall be paid the expenses of management and the revenue due to the Government; and the surplus shall be held in deposit in the Collector's treasury, and shall be paid over to the person who shall be registered by the Collector, or, under the order of a Civil Court, in respect of the extent of interest in dispute.

Effect of
Collector's
order.

57. Every order of a Collector passed under the first clause of section 55 shall be of the same force and effect as an order passed by the Judge under section 4 of Act 19 of 1841 ²(an Act for the protection of movable and immovable property against wrongful possession in cases of succession), determining

¹ This clause in square brackets in s. 55 was substituted for the original clause by the Bengal Land Registration (Amendment) Act, 1878 (Ben. Act 5 of 1878), *post*, p. 381.

² The succession (property protection) Act, 1841. It is printed in General Acts, 1834-67, 2d 1909, p. 87.

of 1876.]

(Part IV.— *Of the Registration and Mutation of Names.*—
Secs. 58-61.)

summarily the right to possession and delivering possession accordingly;

and no proceedings shall be taken by any Civil Court under the said Act in respect of any claim or dispute which has been determined by an order of the Collector as aforesaid.

58. In making a reference to the Civil Court under section 55, the Collector shall state, for the information of the said Court, in writing under his hand,—

Procedure on
reference
under
section 55.

- (1) the name of the estate or revenue-free property to which the reference applies, together with the numbers which it bears on the general register and (if an estate) on the revenue-roll of the district;
- (2) the names of all the persons who now stand registered on the general register as proprietors, managers or mortgagees of such estate or property, with the character and extent of the interest in respect of which each stands registered;
- (3) the name of the applicant for registry;
- (4) the character and extent of the interest in dispute;
- (5) the circumstances of the case, as far as they are before the Collector, and the reasons which have led him to make the reference.

59. On receipt of such reference the said principal Civil Court of the district may either proceed to determine the matter or may transfer the matter for determination to any other competent Civil Court in the district.

Procedure on
receipt of re-
ference.

The said principal Civil Court, or the Court to which the matter is transferred, shall cite the parties concerned, and give notice of the time at which the matter will be heard; and, after expiration of the time so fixed, shall determine summarily the right to possession in respect of the interest in dispute (subject to regular suit), and shall deliver possession accordingly.

60. If it shall appear to the Judge of the Court by which the matter is heard that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, such Judge may appoint curators for the care of the property, and may exercise all or any of the powers mentioned in sections 5 to 13 (both inclusive) of Act 19 of 1841¹.

Judge may
appoint cura-
tor.

61. The said Court may make such order as it shall think fit with regard to the payment by the parties of the cost of the inquiry and proceedings:

Costs.

Provided that no costs shall be recoverable from the parties on account of the issue of notices citing the parties and fixing a date for the first hearing of the case.

¹ The Succession (Property Protection) Act, 1841. It is printed in General Acts, 1834-47, Ed. 1906, p. 37.

[Ben. Act 7

(Part IV.—Of the Registration and Mutation of Names.—
Secs. 62-64.)Effect of
summary de-
cision of
Court.

62. The summary decision of the Court under section 59 shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.

Court to cer-
tify its deter-
mination to
Collector.

63. The Court shall certify to the Collector its determination as to the right of possession, and the Collector shall thereupon make the necessary entries in the proper registers.

Collector to
levy fees on
transfers.

64. Fees at the following rates shall be levied by the Collector on the registry under this Act of any transfer—

- (1) in the case of revenue-paying lands, one quarter or four annas *per centum* on the annual revenue payable to Government from the extent of interest transferred;
- (2) in the case of revenue-free lands, two-and-a-half *per centum* on the amount of the annual produce of the extent of interest transferred, such annual produce being the amount of the rents received and receivable on account of the year preceding the year in which the transfer may be registered;
- ¹[(3) in the case of a fee-simple waste-land lot which is revenue-free, and for which no rents are received or receivable, two-and-a-half *per centum* on one-fifteenth part of the value, such value being taken to be—
 - (a) in the case of a transfer by sale, the purchase-money, and,
 - (b) in any other case, the value determined by the Collector:]

Provided that no fee for the registry of any one transfer shall exceed one hundred rupees.

²[Provided also that the Board³ may, by general or special order, remit the payment of fees payable for any transfer].

Such fees shall be levied from the person in whose favour the transfer is registered.

¹ Clause (3) was inserted, in section 64, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 12 (f), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 12 (f), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

² This proviso was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 12 (2), and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 12 (2), in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

³ Now the Board of Revenue for Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D., Item 3, in Vol. I of this Code.

⁴ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

of 1876.]

(Part IV.—Of the Registration and Mutation of Names.—
Secs.—65-68.)

All fees levied under this section shall be carried to the account of Government.

65. Whoever, being required by this Act to apply for the registration of his name and the extent of his interest in any estate or revenue-free property voluntarily or negligently omits to make such application within the prescribed time, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees for such omission, and to such further daily fine as the Collector may think fit to impose, not exceeding fifty rupees, for each day during which such person shall omit to apply for such registration after a date to be fixed by the Collector in a notice requiring such person to apply for registration.

Penalty for omitting to comply with Act.

Such notice shall be served in the manner prescribed in section 50, and the date before which such person is required to apply for registration shall not be less than one month after service of such notice.

66. The Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending:

Fine may be levied notwithstanding appeal.

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

67. Notwithstanding anything contained in section 65, no fine shall be imposed by the Collector under the said section on any person on the ground that such person has failed to make application for registration of his name within the time fixed by the Lieutenant-Governor¹ under section 39 or 40,

No penalty on person who applies suo motu.

or on the ground that such person has failed to apply for registration of his name within the time prescribed by section 42,

if such person shall, at any time after the expiration of the time fixed or prescribed as aforesaid, of his own motion, and otherwise than after the issue of a requisition by the Collector in that behalf, present such application as is required by this Act for the registration of his name and of the character and extent of his interest.

10 of 1872.

68. Save as is provided in section 90 of the Code of Criminal Procedure,² all the recorded proprietors and managers of an estate or revenue-free property shall be deemed to be

Liabilities of proprietors and managers.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² Act 10 of 1872 was repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to s. 45 of that Code—see s. 8 thereof, in General Acts, 1898-1908, Ed. 1909, p. 40.

[Ben. Act 7]

(Part V.—Of the Opening of separate Accounts in respect of Shares.—Secs. 69, 70.)

jointly and severally liable for the discharge of any duties and obligations which are, by any law for the time being in force, imposed upon the proprietors of such estate or property;

and all persons who are required by this Act to apply for registration shall, from the date on which the obligation so to register is imposed on them respectively by this Act, be deemed to be liable for the discharge of any duties and obligations which are by any such law as aforesaid imposed upon the proprietors of the estate or property in respect of which they are required to apply for registration respectively.

PART V.

OF THE OPENING OF SEPARATE ACCOUNTS IN RESPECT OF SHARES.

Opening of
separate
account of
share of
applicant
under Act 11
of 1859.

69. Notwithstanding anything contained in Act 11 of 1859¹ (*an Act to improve the law relating to sales of land, etc.*), from the commencement of this Act² no separate account shall be opened under the provisions of section 10 or of section 11 of the said Act in respect of the share of any applicant under the said sections otherwise than for a share corresponding with the character and extent of interest in the estate in respect of which such applicant is recorded as proprietor or manager under this Act.

Proprietor
holding
undivided
interest
in specific
lands may
apply for
separate
account.

70. When a proprietor of a joint estate, who is recorded as proprietor of an undivided interest held in common tenancy in any specific portion of the land of the estate, but not extending over the whole estate, desires to pay separately the share of the Government revenue which is due in respect of such interest, he may submit to the Collector a written application to that effect.

The application must contain a specification of the land in which he holds such undivided interest, and of the boundaries and extent thereof, together with a statement of the amount of Government revenue heretofore paid on account of such undivided interest.

¹ The Bengal Land-revenue Rules Act, 1859. It is printed in Vol. I of this Code.

² *Id.*, the 3rd August, 1876.

³ As to the protection from sale of shares of estates for which a separate account has been opened under s. 70, and which are under the charge of the Court of Wards, see the Court of Wards Act, 1879 (Ben. Act 9 of 1879), Pt. III, post, p. 419.

As to separate liability for payment of road cess and public works cess when a separate account has been opened under s. 70, see the Cess Act, 1880 (Ben. Act 9 of 1880), s. 44, post, p. 656.

As to separate liability for payment of sums due under the Bengal Embankment Act, 1862 (Ben. Act 3 of 1862), when a separate account has been opened under s. 70 of the present Act, see s. 71 and 72 of the Act of 1862, post, pp. 655. and 656.

of 1876.]

(Part V.—Of the Opening of separate Accounts in respect of Shares.—Secs. 71, 72.)

On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in section 10 of Act 11 of 1859.¹

In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account shall be held to be that from which the separate liabilities of the share of the applicant commence.

11 of 1859.

²[Notwithstanding anything hereinbefore contained, no application under this section or under section 10 or section 11 of the Bengal Land-revenue Sales Act, 1859³, shall be received unless it is accompanied by a fee of two rupees.]

71. Section 12 of the said Act 11 of 1859¹ shall apply to every application made under the last preceding section; and the effect and consequences of opening a separate account under the last preceding section shall be such and the same as are described in section 13 and in section 14 of Act 11 of 1859¹.

Sections 12, 13 and 14 of Act 11 of 1859 applied.

72. Whenever any share in respect of which a separate account has been opened by the Collector under section 10 or section 11 of the said Act 11 of 1859¹, or under section 70, shall no longer correspond with the character and extent of interest held in the estate by any one proprietor or manager, or jointly by two or more proprietors or managers.

Application to close separate account.

any proprietor or manager whose name is borne on the general register under this Act as proprietor or manager of any interest in the share in respect of which such separate account is open, may submit to the Collector a written application,

setting out the circumstances under which such share no longer corresponds with the extent of interest held in the estate by any recorded proprietor or manager, or jointly by two or more recorded proprietors or managers,

and specifying the manner in which such share has become broken up and distributed among the proprietors of the estate,

and praying that the separate account standing open in respect of such share shall be closed.

and, if he so desire, praying that another separate account be opened in respect of any other share or shares which were wholly or partly included in the share in respect of which the previous separate account was open.

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

² This paragraph was added to section 70, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 13, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 18, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

(Part V.—Of the Opening of separate Accounts in respect of Shares.—Secs. 73, 74.)

Illustration.

In a certain estate separate accounts have been open under section 10 of Act 11 of 1859¹ for the 4 annas share of A, and also for the 5 annas share of B, the accounts of the remaining 7 annas shares being kept jointly in the names of the remaining proprietors C, D and E.

In course of time X has inherited A's 4 annas share, and also C's interest in the 7 annas share which amounted to 3 annas; X has also acquired by purchase 2 annas out of B's 5 annas share, so that the interests in the estate are now distributed as follows:—

X	...	...	...	...	9 annas.
B	...	...	...	...	3 "
D & E	...	...	...	...	4 "

X, if a recorded proprietor of the estate, may apply to the Collector to close the separate account which is open in respect of A's 4 annas share and also the separate account which is open in respect of B's 5 annas share, but as neither of these shares corresponds with the extent of interest held by any one proprietor, or held jointly by two or more proprietors in the estate;

and in the same application X may apply for the opening of a separate account in respect of the 9 annas share which he now holds.

Any of the other proprietors might also make a similar application.

Separate account may be closed and another opened.

73. On receipt of such application the Collector shall cause a copy of the same to be published in the manner provided in section 10 of Act 11 of 1859¹; and if within six weeks from the date of such publication no objection is made by any other recorded proprietor of the estate, the Collector shall close the separate account which then stands open, and shall open a separate account with the applicant as required by him under section 10 or section 11 of Act 11 of 1859¹ or under section 70, as the case may be.

Procedure in case of objection.

74. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the share in respect of which any separate account is open as aforesaid has not been broken up, and does still correspond with the character and extent of interest held by any one proprietor or manager, or jointly by two or more proprietors or managers,

or object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him,

or (when the application is in respect of a specific portion of the land of an estate, or in respect of an undivided interest held in common tenancy in any specific portion of the land of the estate) object that the amount of Government revenue stated by the applicant to have been heretofore paid on account of such portion of land, or on account of the applicant's undivided interest therein, is not the amount which has been recognized by the other sharers as the Government revenue thereof,

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

of 1876.]

(Part IV.—Of the Opening of separate accounts in respect of Shares.—Part VI.—Miscellaneous.—Secs. 74A-77.)

the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

¹74A. Notwithstanding anything contained in the foregoing sections, if the Collector becomes aware, otherwise than after receipt of an application under section 72, that any separate account opened under section 10 or section 11 of the Bengal Land-revenue Sales Act, 1859², or under section 70 or section 72 of this Act, in respect of any estate does not represent existing facts, he may, after service of a notice on the recorded proprietor in the manner prescribed by section 50, and after hearing any objection which may be preferred, close the account.

Power of Collector to close a separate account otherwise than upon application.

11 of 1859.

PART VI.

MISCELLANEOUS.

75. The Collector shall supply an extract from any register mentioned in this Act to any person who may apply for the same, subject to the payment of such fees for searching and copying as may be prescribed by the Board.³

Collector to furnish extract from register.

76. If in any district any register prescribed by this Act has not been prepared and kept up in the vernacular language and character of the district, the Collector shall be bound, together with any English extract which may be furnished under the last preceding section, to furnish a translation of the same in the vernacular language and written in the vernacular character of such district to any one who may demand such translation, and no further charge shall be made in respect of the furnishing of such translation than might have been charged in respect of the English extract furnished under the said section.

Collector to furnish translation of extract.

77. Whenever any change shall be made by order of competent authority in the names of the recorded proprietors or managers of any estate or revenue-free property, or in the character or extent of the interest of any such proprietor or manager as entered in any register mentioned in this Act, so soon as the order under which such change in the entry may

Changes in names of proprietors, etc., and extent of interest to be notified on estate.

¹ Section 74 A was inserted, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 14, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 14, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

² The Bengal Land-Revenue Sales Act, 1859. It is printed in Vol. I of this Code.

³ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

(Part VI.—Miscellaneous.—Secs. 78-80.)

have been made shall have been confirmed on appeal, or so soon as the period for presenting an appeal against such order shall have expired without the presentation of an appeal, the Collector shall cause a notice of such change to be posted up at his office, at the office of every Sub-divisional Officer within whose jurisdiction any lands of the estate or revenue-free property concerned are situated, and at such places as he may think fit on the estate or property;

and every such notice shall set out the name of every proprietor and manager of the estate or revenue-free property [who is] concerned, and the character and extent of the interest of every such proprietor and manager as it stands recorded on the general register on the date of the issue of the notice.

No person bound to pay rent to claimant not registered.

78. No person shall be bound to pay rent to any person claiming such rent as proprietor or manager of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act;

Payment to each of several proprietors, etc., holding in common tenancy.

and no person being liable to pay rent to two or more such proprietors, managers or mortgagees holding in common tenancy shall be bound to pay to any one such proprietor, manager or mortgagee more than the amount which bears the same proportion to the whole of such rent as the extent of the interest in respect of which such proprietor, manager or mortgagee is registered bears to the entire estate or revenue-free property.

Indemnity to persons paying rent to registered proprietor.

79. The receipt of any proprietor, manager or mortgagee whose name and the extent of whose interest is registered under this Act shall afford full indemnity to any person paying rent to such proprietor, manager or mortgagee.

Payment of sums payable by Collector to proprietors jointly.

80. Whenever any sum of money shall be payable by the Collector to the proprietors of any estate or revenue-free property jointly (otherwise than under the Land Acquisition Act, 1870¹), the Collector may pay to any one or more recorded proprietors or managers thereof respectively such portion of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor or manager is registered, and the receipt of each such proprietor or manager shall afford full indemnity to the Collector in respect of any sum so paid.

10 of 1870.

¹ These words "who is" were inserted in section 77, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 15, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. & A. Act 1 of 1907), s. 14, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

² Act 30 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894), and this reference should now be construed as a reference to the latter Act—see s. 2 (3) thereof, in General Acts, 1887-97, Ed. 1908, p. 861.

of 1876.]

(Part VI.—Miscellaneous.—Secs. 81-85.)

81. Nothing contained in the three last preceding sections shall be held to interfere with the conditions of any written contract, or to prevent any person deeming himself entitled to any sum of money from recovering such sum by due process of law from any other person who has received the same.

Saving of written contracts and recovery from person receiving money.

82. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, of any fees payable, of any notices served, of any costs payable by any party, or of any fines imposed, shall be deemed to be a demand.

Every amount due deemed to be a demand.

83. The Collector may by a notice require the proprietor or manager of any estate or revenue-free property to name such estate or property by a distinctive name, and in case of failure of such proprietor or manager to comply with the requisition within the time fixed by the Collector may name such estate or property.

Collector may require proprietor to name estate.

¹[The notice required under this section shall be served in the manner prescribed in section 50].

84. The Collector may, by a special or a general order, delegate to any Assistant Collector, Deputy Collector or Sub-Deputy Collector, the performance of any duty, and the exercise of any function, which the Collector is required or empowered to perform or exercise under this Act, except in respect of appeals.

Collector may delegate duties.

and any Assistant, Deputy or Sub-Deputy Collector to whom any duty or function is so delegated may exercise all the powers of a Collector under this Act, except in respect of appeals.

85. Every order passed under this Act by any revenue-officer below the rank of the Collector of the district (not being an officer specially vested with appellate powers as hereinafter mentioned) shall be appealable to the Collector of the district, or to any officer who may have been specially vested by the Government with special appellate powers in this behalf, and there shall be no further appeal from any order so passed in appeal confirming the order appealed against.

Appeal.

but an appeal shall lie to the Commissioner of the Division against every order so passed in appeal which modifies or reverses the order appealed against.

Every order passed by the Collector of the district, or by any officer especially vested with appellate powers as aforesaid,

¹ The reference to the Bengal Land-revenue Sales Act, 1868 (Ben. Act 7 of 1868), was repealed by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880), and is omitted. As to recovery of "demands," see now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 2 of 1918), s. 3 (d) and Sch. I, in Vol. III of this Code.

² These words in square brackets were added to s. 83, for Western Bengal, by the Bengal Land Registration (Amendment) Act, 1906 (Ben. Act. 2 of 1906), s. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Land Registration (Amendment) Act, 1907 (E. B. and A. Act 1 of 1907), s. 7, in Vol. III of this Code. The former Act has been repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 4, Sch. IV, and the latter Act has been extended to Western Bengal by the same Act, s. 4, Sch. II.

(Part VI.—Miscellaneous.—Secs. 86-88.)

being passed otherwise than on appeal from the order of another officer, shall be appealable to the Commissioner of the Division.

Every appeal to the Collector shall be presented within fifteen days of the date of the order appealed against;

and every appeal to the Commissioner shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the order appealed against;

and every appeal presented after the lapse of the time fixed by this section may be summarily rejected, unless sufficient cause shall be shown to the satisfaction of the appellate authority for admitting the appeal after the lapse of such time.

Every order passed by any officer subordinate to a Commissioner shall be subject at any time to revision and modification by such Commissioner;

and every order passed by any such officer or by such Commissioner shall be subject at any time to revision and modification by the Board.¹

Exclusion of
time in case
of appeals.

86. In computing the period of limitation prescribed for an appeal, the day on which the order complained of was made, and the time requisite for obtaining a copy of the same shall be excluded.

Lieutenant-
Governor may
vest officer
with special
appellate
powers.

87. The Lieutenant-Governor² may from time to time vest any officer other than the Collector of the district with special appellate powers under this Act; and every officer so vested shall be competent to hear and decide any appeal which the Collector of the district is competent to hear and decide under this Act.

Board may
make certain
rules.

88. Within four months of the date³, on which this Act comes into force the Board⁴ shall make general rules⁴, consistent with this Act, to regulate—

the form in which registers under this Act are to be kept;

the procedure as to the presentation, admission and verification of applications for registration under Part IV, and as to inquiries under section 52,

and generally for the purposes of this Act.

The Board¹ may from time to time cancel or alter any such rules.

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913).

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 5, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ I.e., the 22nd August, 1876.

⁴ For a list of forms prescribed under section 88, and for rules made under that section for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders 1912, Vol. I, Pt. VI.

of 1876.]

(Part VI.—Miscellaneous.—Sec. 89.—Schedule of Regulations repealed.)

89. Nothing contained in this Act, and nothing done in accordance with this Act, shall be deemed to— Saving clause.

- (a) preclude any person from bringing a regular suit for possession of, or for a declaration of right to, any immovable property to which he may deem himself entitled;
- (b) render the entry of any land in the registers under this Act as revenue-free an admission on the part of Government of the right of the person in whose name such land may be entered, or an admission of the validity of the title under which the said land is held revenue-free;
- (c) affect the rights of the Government or of any person in respect of any immovable property or of any interest, except as otherwise expressly provided herein.

SCHEDULE OF REGULATIONS REPEALED.

Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

BENGAL ACT 5 OF 1878

[THE BENGAL LAND REGISTRATION (AMENDMENT) ACT, 1878].¹

(29th May, 1878.)

An Act to amend Bengal Act 7 of 1876.

Whereas it is expedient to amend Bengal Act 7 of 1876; Preamble.
It is enacted as follows:—

1. For the first clause of section 55 of the said Act the following shall be substituted:—

(Printed *ante*, p. 368.)

2. (*Commencement*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903, —vide Act 10 of 1914, Sch. II.*

Clause substituted in section 55 of Ben. Act 7 of 1876.

¹ **SHORT TITLE**—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—*see* Vol. I of this Code. That Act is now known as the Amending Act, 1903—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Object and Reasons, *see* Calcutta Gazette, 1878, Pt. IV, page 79; and for Proceedings in Council, *see* *ibid.* 1878, Supplement, pages 375 and 400.

LOCAL EXTENT—Since this Act has no local extent clause, it must (like the Land Registration Act, 1876, as to which *see* footnote ¹ on page 345, *ante*) be taken to have been intended to extend to the whole of the former Province of Bengal.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

BENGAL ACT 2 OF 1879

[THE PURI LODGING-HOUSE (EXTENSION) ACT, 1879].¹

(2nd April, 1879.)

An Act to amend and extend the Puri Lodging-house Act, 1871.²

Ben. Act 4 of 1871.

Whereas it is expedient to amend Bengal Act No. 4 of 1871,² and to give power to the Lieutenant-Governor of Bengal³ to extend the provisions of the said Act * * *. It is enacted as follows:—

Preamble.

1. (*Commencement*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. Section 22 of Bengal Act No. 4 of 1871 is repealed and the following section substituted:—

Amendment of section 22 of Puri Lodging-house Act.

(Printed *ante*, p. 208.)

Lieutenant-Governor may extend Puri Lodging-house Act.

³3. The Lieutenant-Governor of Bengal³ may from time to time, by notification⁶ in the Calcutta Gazette, extend Bengal Act No. 4 of 1871², as amended by this Act, or any part of it, to any town or place to or through which people go on pilgrimage, and to the lines of road leading thereto;

and the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification,

³3. The Lieutenant-Governor of Bengal³ may from time to time, by notification⁶ in the Calcutta Gazette, extend Bengal Act No. 4 of 1871², as amended by this Act, or any part of it, to any town or place to or through which people go on pilgrimage, and to the lines of road leading thereto;

and the provisions of the said Act, or of any part of it, as the case may be, shall, from the date of such notification,

Lieutenant-Governor may extend Puri Lodging-house Act.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I, sec. Vol. I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879, Pt. IV, page 4; for Report of Select Committee, see *ibid*, p. 17; and for Proceedings in Council, see *ibid*, 1879, Supplement, pages 6, 28 and 250.

LOCAL EXTENT.—As to the local extent of this Act, see foot-note ¹ on p. 199, *ante*.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² Printed *ante*, p. 199.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

⁴ The words and figures "to places other than those specified in section 89 of the said Act," in the preamble, were repealed by the Repealing and Amending Act, 1903 (1 of 1903), and are omitted.

⁵ Section 3 is in force in this form in Western Bengal.

⁶ For a list of notifications issued under section 3 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁷ Section 3 is in force in this form in Eastern Bengal.

The differences in section 3 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

384 THE PURI LODGING-HOUSE (EXTENSION) ACT, 1879.

[Ben. Act 2 of 1879.]

apply accordingly, with the following modifications:—

in lieu of the word "Puri" in sections 2, 3, 7¹ * * *, shall be substituted the name of the place or places mentioned in the notification;

apply accordingly, with the following modifications:—

²*in section 7, after the word "each" the words "day or" shall be inserted;*

in lieu of the word "Puri" in sections 2, 3, 7 and *Schedule B*, shall be substituted the name of the place or places mentioned in the notification:

in lieu of the words "the rate of 8 annas," in section 8, shall be substituted the words "a rate not exceeding one rupee;"

in lieu of the last five words in section 14 shall be substituted the words "in the character of the vernacular of the district."

¹ Portions of s. 3 are omitted as having been repealed, in Western Bengal, by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 16, in Vol. III of this Code.

² This clause in italics was inserted by the Puri Lodging-house (Extension) Act, 1884 (Ben. Act 1 of 1884), s. 2, *post*, p. 689.

BENGAL ACT 3 OF 1879

(THE BENGAL STEAM-BOILERS AND PRIME-MOVERS ACT, 1879).

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PREAMBLE.

SECTION.

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(*Commencement*). *Repealed*.
Lieutenant-Governor may extend it further.
2. Repeal of Ben. Acts 5 of 1864 and 3 of 1875.
3. Interpretation.
4. Power to make rules.
5. On notice from owner, Inspector to examine boiler or prime-mover.
6. Inspector may order owner to alter boiler or prime-mover.
7. When Inspector to grant certificate.
8. Revocation or suspension of certificate.
9. Appeal against refusal, revocation or suspension of certificate.
10. Powers of entry of Inspectors.
11. Penalties.
12. Charges within what period to be brought.
13. Disposal of penalties.

SCHEDULE.

BENGAL ACT 3 OF 1879

(THE BENGAL STEAM-BOILERS AND PRIME-MOVERS ACT, 1879).¹

(7th May, 1879.)

An Act to provide for the periodical inspection of steam-boilers and prime-movers attached thereto ° ° ° °.

Whereas it is expedient to provide for the periodical inspection of steam-boilers and prime-movers attached thereto ° ° ° °; It is enacted as follows:—

1. This Act extends to the town of Calcutta, to the suburbs of Calcutta, and to Howrah as from time to time defined in the Calcutta Gazette under the provisions of any law for the time being in force.

(Commencement). *Rep. by the Repealing and Amending Act, 1903, (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

The Lieutenant-Governor of Bengal may, by notification published in the Calcutta Gazette, extend this Act to any place or district, and it shall come into force accordingly from the date which may be named in such notification.

It shall not apply to any locomotive engine used upon any railway, or to any steam-vessel in the port of Calcutta.

2. Bengal Act 6 of 1864 and Bengal Act 3 of 1875 are hereby repealed.

But all certificates and rules in force at the commencement of this Act, which were granted or made under either of the said Acts, shall be deemed to have been granted and made respectively under this Act.

3. In this Act, unless there be something repugnant in the subject or context,—

“boiler” includes any cylinder or vessel for generating steam under pressure:

“prime-mover” includes any steam-engine, fly-wheel, first driving shaft and pulley attached to any such engine:

“owner” includes any agent or hirer using any boiler or prime-mover.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879, Pt. IV, page 8; for Report of Select Committee, see *ibid*, page 41; and for Proceedings in Council, see *ibid*, 1879, Supplement, pages 320, 325.

LOCAL EXTENT.—This Act extends to the town and suburbs of Calcutta and to Howrah, and may be extended to any other place or district in Bengal—see s. 1.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² The words “in the town and suburbs of Calcutta and in Howrah,” in the title and preamble, were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Secs. 4-7.)

Power to
make rules.

4. The Lieutenant-Governor¹ may from time to time make, and, when made, revoke, add to and alter, rules² for all or any of the following purposes, that is to say:—

- (1) for appointing and, when appointed, suspending or removing inspectors under this Act;
- (2) for determining the powers and duties of such inspectors;
- (3) for fixing the fees payable on account of certificates granted under this Act;
- (4) for determining the time for which certificates granted under this Act shall be in force;
- (5) for securing the attendance of assessors and affixing a penalty for non-attendance;
- (6) for regulating the procedure on hearing appeals;
- (7) for carrying out the purposes of this Act.

Such rules shall be published three times in the Calcutta Gazette and shall come into operation at the date of the last publication, or at any later period mentioned in the order.

On notice
from owner,
Inspector
to examine
boiler or
prime-mover

5. The owner of any boiler or prime-mover in respect of which a certificate is not in force in the manner hereinafter described shall, before using the same, give notice to an Inspector appointed under this Act of his intention to use or continue to use the same.

The Inspector to whom such notice is given shall appoint a time, between sunrise and sunset, and within fourteen days from the receipt of such notice, for the inspection of such boiler or prime-mover, and at such time shall carefully examine such boiler or prime-mover, and every part thereof, and the owner or person in charge thereof shall afford to such Inspector all reasonable facilities for such examination, and all such information as may reasonably be required.

Inspector may
order owner
to alter boiler
or prime-
mover.

6. If, on making the inspection, the Inspector is of opinion that the boiler or prime-mover requires any alteration or addition, he shall serve on the owner or person in charge thereof a written notice requiring him to make such alteration or addition, and no certificate shall be granted in respect of such boiler or prime-mover until such alteration or addition has been made in the manner required by the Inspector, or the owner has obtained a certificate under section 9 of this Act.

When In-
spector to
grant certi-
ficate.

7. If the Inspector is satisfied that such boiler or prime-mover is in good condition, and not so exposed as to be likely to be dangerous,

and, in case any alteration or addition in such boiler or prime-mover has been ordered under the last preceding section,

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For rules made under section 4 for Bengal, see constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

of 1879.]

(Secs. 8-10.)

as soon as he is satisfied that such alteration or addition has been properly made,

he shall give to the owner or person in charge thereof a certificate signed by him to that effect in the form in the Schedule hereto annexed, on payment by the owner or person in charge of such fees as may be fixed under the rules herein-before mentioned :

and such certificate shall state the period for which such boiler or prime-mover may be used, and shall cease to be in force on the expiration of such period.

8. Any person authorized by the Lieutenant-Governor¹ in that behalf may revoke or suspend any certificate granted under this Act when he has reason to believe—

Revocation or suspension of certificate.

- (1) that such certificate has been fraudulently obtained, or has been granted erroneously, or without sufficient inspection ;
- (2) that the boiler or prime-mover in respect of which it has been granted is not in charge of a person competent to have charge of it, or has since the granting of such certificate, sustained injury ; or is not in good condition.

9. The owner of any boiler or prime-mover dissatisfied with any notice or order under sections 6, 7 or 8 of this Act may, within seven days from receipt thereof, appeal either to some person authorized by the Lieutenant-Governor¹ in that behalf, or to some such person assisted by two experts as assessors.

Appeal against refusal, revocation or suspension of certificate.

If such person is satisfied that the owner is entitled to a certificate, he shall, on payment of the fee, grant a certificate in the form in the Schedule hereto annexed, or shall allow the former certificate to continue in force, as the case may be, and shall direct that the expenses of the appeal incurred by Government and certified to by him shall be paid out of the fees and penalties realized under this Act.

If such person decides that the owner is not entitled to a certificate, he shall dismiss the appeal, and the expenses of the appeal incurred and certified in manner aforesaid shall be recoverable from the owner as a fine² by any Magistrate having jurisdiction in the place where the boiler or prime-mover is situated.

10. Any Inspector appointed under this Act may at any time enter into any place where he has reason to believe that a boiler or prime-mover is used, for the purpose of inspecting the same.

Powers of entry of Inspectors

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² As to the recovery of fines, see the Bengal General Clauses Act, 1859 (Ben. Act 1 of 1859), s. 26, in Vol. III of this Code.

390 THE BENGAL STEAM-BOILERS AND PRIME-MOVERS ACT, 1879.

[BEN. ACT 3 OF 1879.]

(Secs. 11-13.—Schedule.)

Penalties.

11. The owner or person in charge of any boiler or prime-mover who shall use, or, after conviction, continue to use, the same without a certificate duly obtained and in force in respect thereof under this Act, or having obtained a certificate shall, at any reasonable time during the period for which the same may be in force, fail to produce it when called upon to do so by any Magistrate having jurisdiction in the place in which such boiler or prime-mover is situated, or by any person authorized in writing by such Magistrate to demand its production, and

any person who shall prevent an Inspector from entering any place or building where the Inspector has reason to believe that a boiler or prime-mover is used,

shall be punished with a fine not exceeding five hundred rupees.

Charges with-
in what
period to be
brought.

12. * * * * 1 No charge at all shall be brought without the authority of an Inspector appointed under this Act, or after the expiration of six months from the date of the commission of the offence.

Disposal of
penalties.

13. All penalties to be levied under this Act shall, subject to the provisions of section 9, be disposed of in such manner as the Lieutenant-Governor² shall from time to time direct.

SCHEDULE.

(See sections 7 and 9.)

FORM OF CERTIFICATE.

Name of owner.	Description of boiler and age.	Description of prime-mover and age.	Power.	When and where made.	When and where last repaired.	Time for which certificate to be in force.	REMARKS.

I, the undersigned, certify that I have examined the above-named boiler (or prime-mover), and to the best of my judgment the boiler (or prime-mover), as shown in the above statement is in good condition, and is not so exposed as to be likely to be dangerous [and (in case alterations or additions have been ordered) that the alterations (or additions) required by me have been properly made].

A. B.,
Inspector.

¹ The words "No charge shall be brought against any person for the recovery of any penalty under this Act before such day as the Lieutenant-Governor shall fix by notification in the Calcutta Gazette, and," were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

BENGAL ACT 6 OF 1879

(THE DARJEELING STEAM TRAMWAY ACT)¹.

(4th June, 1879.)

An Act to provide for the construction of a steam-tramway between Siliguri and Darjeeling.

Whereas a Company has been formed called the Darjeeling Steam Tramway Company, Limited, hereinafter called the Company, for the purpose of constructing, maintaining and working a steam-tramway from Siliguri to Darjeeling; and whereas an agreement bearing the date the eighth day of April eighteen hundred and seventy-nine has been entered into between Franklin Prestage, Esq., as trustee on behalf of the Company, and the Secretary of State for India in Council, for the above purpose; and whereas it is expedient that the Company should be authorized to construct, maintain and work a steam-tramway upon the existing cart-road between Siliguri and Darjeeling as aforesaid, and to do all things necessary in that behalf; It is enacted as follows:—

1. The Act may be called the Darjeeling Steam Tramway Act; Preamble.

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. The Company may construct and maintain upon the said existing cart-road between Siliguri and Darjeeling a tramway, conformable to the specification and conditions set forth in the hereinbefore mentioned agreement between the said trustee for the Company and the said Secretary of State, or any agreement which may hereafter be entered into between the Company and the said Secretary of State, with all proper rails, sidings, stations, offices, warehouses, fixed machinery and other works connected therewith or for the purposes thereof, and use and employ upon such tramway such locomotive engines or other moving power, and such carriages or wagons to be drawn or propelled thereby, as they may deem fit. Power to construct tramway.

3. The Company may, with the permission of such officer as the Local Government may from time to time empower in that behalf, obstruct the said cart-road, but in such case the Company shall provide such accommodation for the local traffic during such obstruction as the said officer shall direct. Power to obstruct cart-road.

¹ LEGISLATIVE PAPERS.—For Proceedings in Council, see the Calcutta Gazette, 1879, Supplement, page 466.

LOCAL EXTENT.—This Act extends only to the Darjeeling Steam-tramway (now known as the Darjeeling-Himalayan Railway).

BENGAL ACT 8 OF 1879

(THE BENGAL RENT SETTLEMENT ACT, 1879).

CONTENTS.

PREAMBLE.

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2. (*Repealed*).
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5. Rent to be in accordance with rates sanctioned by Revenue-authorities.
6. Grounds of enhancement.
7. Rules for determining rent recorded as demandable.
8. Procedure when rent demandable is recorded below that to which it might have been enhanced.
9. Service of notice of enhancement.
10. Suit to contest rents.
11. Procedure in suits to contest rent recorded as demandable.
12. Enhancement when to take effect.
13. Rent to hold good for ten years or until expiration of settlement.
14. Application of Act.

BENGAL ACT 8 OF 1879

(THE BENGAL RENT SETTLEMENT ACT, 1879).¹

(4th June, 1879.)

An Act to define and limit the powers of Settlement-officers.

Whereas it is expedient to define and limit the powers of Settlement-officers; It is enacted as follows:—

1. This Act extends to all the territories under the administration of the Lieutenant-Governor of Bengal.²

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. (Repeal of Ben. Act 3 of 1878). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

3. In this Act—

“Settlement-officer” means the Collector or any officer in charge of the revenue jurisdiction of a district, and includes any Assistant Commissioner, Deputy Collector or Sub-Deputy Collector whom the Collector or other officer as aforesaid may authorize to conduct the inquiries and proceedings connected with any settlement of land-revenue, and any officer who may be appointed by the Lieutenant-Governor³ to make any such settlement:

“under-tenant” means any holder of a heritable and transferable intermediate tenure between the Government and the *raiyat* other than a *zamindar*.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1913—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879, Pt. IV, p. 46; for Report or Select Committee, see *ibid*, page 55, and for Proceedings in Council, see *ibid*, 1879, Supplement, pp. 826, 393, 485.

LOCAL EXTENT.—This Act extended originally to the whole of the former Province of Bengal (see section 1), and it applies to all settlement proceedings under the Bengal Land-revenue Settlement Regulation, 1822 (7 of 1822)—in Vol. I of this Code, which were confirmed after the commencement of Ben. Act 8 of 1878 (Powers of Settlement-officers), or which were or are confirmed or sanctioned by the Revenue-authorities duly empowered (see section 14).

The Act has been repealed by the Bengal Tenancy Act, 1885 (8 of 1885), s. 2 (1) (printed in Vol. I of this Code) in the whole of the former Province of Bengal except “the town of Calcutta, the Division of Orissa and the Scheduled Districts.”

The extension of the repeal to Scheduled Districts depends upon the terms of the notifications extending the Act of 1885 to such districts. Under the terms of the notification extending the Act of 1885 to the Jalpaiguri District, the repeal has taken effect in that district.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900) section 4 (2), printed in Vol. I of this Code.

The only portion of the present Presidency of Fort William in Bengal in which Ben. Act 8 of 1879 appears to be effectually in force at the present time is the Darjeeling District.

² This includes the present Presidency of Fort William in Bengal and other territory—but see the concluding clause of footnote ¹ above.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 4-6.)

Settlement-
proceedings
not affected
by certain
enactments.

Rent to be in
accordance
with rates
sanctioned by
the Revenue-
authorities.

Grounds of
enhancement.

4. Nothing contained in section 51 of Regulation 8 of 1793¹ or in sections 13, 14 and 17 of Act 10 of 1859,² shall affect any settlement proceedings under Regulation 7 of 1822,³ or under any other law for the time being in force for the regulation of settlements of land-revenue.

5. In any such settlement-proceedings the rent recorded as demandable from each *raiyat* shall, except as herein otherwise provided, be in accordance with the general rates sanctioned⁴ or subsequently approved for adoption in such settlement by the Revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor.⁵

6. The Settlement-officer may, on some one or other of the following grounds and not otherwise, record a higher rent as demandable from any *raiyat* having a right of occupancy than the rent which was previously paid by him, namely :—

- (i) that the higher rent so recorded is calculated on rates which are not above the prevailing rates payable by the same class of *raiya*s for land of a similar description and with similar advantages in the surrounding neighbourhood;
- (ii) that the enhancement is not greater than is justified by the increase which has taken place in the productive powers of the land otherwise than by the agency, or at the expense, of the *raiyat* since the rent of the *raiyat* was last fixed;
- (iii) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the *raiyat* since the rent of the *raiyat* was last fixed; and that such higher rent does not bear a higher proportion to the rent of such *raiyat* as last fixed than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time when such rent was last fixed;
- (iv) that the value of the produce of the land has been increased otherwise than by the agency, or at the expense, of the *raiyat* since the last previous settlement of the lands was made; and that such higher rent does not bear a higher proportion to that which would have been the rent of lands of a similar

¹ The Bengal Decennial Settlement Regulation, 1793. It is printed in Vol. I of this Code.

² The Bengal Rent Act, 1859. It is printed in Vol. I of this Code.

³ The words and figures "or in sections 14, 15 and 18 of Bengal Act 8 of 1859", were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

⁴ The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. I of this Code.

⁵ For rules made with reference to section 6 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 4, and Sch. D, Item 1, in Vol. I of this Code.

of 1872.]

(Secs. 7, 8.)

description and the same area according to the rates of such previous settlement, than the normal price of produce at or about the time of the present settlement bears to the normal price of similar produce which prevailed at or about the time of such previous settlement, as recorded in the papers of such settlement, or as otherwise ascertained and certified by the Settlement-officer;

- (v) that the quantity of land held by the *raiyat* has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

7. The rent recorded as demandable from an under-tenant shall be determined in accordance with the following rules:—

Rules for determining rent recorded as demandable.

- (a) Whenever the Settlement-officer shall find any person holding as an under-tenant, he shall first ascertain and record whether the tenure so held is binding as against the Government.
- (b) If the Settlement-officer finds the tenure to be so binding, the rent recorded as demandable from such under-tenant shall in no case be higher than an amount which shall be ten *per cent.* below the aggregate of the rents recorded as payable to him from the subordinate under-tenants and *raiya*s whose holdings fall within his tenure.
- (c) If the Settlement-officer shall find that the tenure is not binding as against the Government, he shall first determine the proportionate amount of the demand of land-revenue to be assessed upon the lands included in the tenure in accordance with any orders of Government for the time being in force regulating the demand of land-revenue, and shall record the rent payable by such under-tenant at such a sum (not being less than such proportionate amount of land revenue or more than aggregate of the rents recorded as payable to him from the subordinate under-tenants and *raiya*s whose holdings fall within his tenure) as may seem fair and equitable with reference to the character and circumstances of the tenure.

8. When the rent demandable from any under-tenant or *raiyat* is recorded at an amount below that to which the rent of such under-tenant or *raiyat* might have been enhanced under this Act, it may be recorded that such under-tenant or *raiyat* shall from time to time be liable to pay increased rent from such dates as may be fixed by the Settlement-officer until

Procedure when rent demandable is recorded below that to which it might have been enhanced.

(Secs. 9-12.)

the rent paid by him reaches the amount which the Settlement-officer may determine to be properly payable by him under this Act.

Service of
notice of
enhancement.

9. Whenever a higher rent has been recorded as demandable from any under-tenant or *raiyat* than the rent previously paid by him, the Settlement-officer shall cause to be published a copy of the *jamabandi* or extracts therefrom, specifying in respect of each such under-tenant or *raiyat* the rent recorded as payable by him, and in the case of a *raiyat*, the clause or clauses of section 6 of this Act under which his rent is enhanced.

Such publication may be lawfully made by affixing a copy of the *jamabandi*, or of such extracts therefrom as the Collector may think fit, at the *mal cutcherry* of the village to which the *jamabandi* relates, or at some other conspicuous place therein, and by proclamation by beat of drum in the said village to the effect that the said copy or extracts have been so affixed, and that the *jamabandi* can be inspected at the office of the Settlement-officer.

Suit to
contest rents.

10. Every under-tenant and *raiyat* shall be liable to pay the rent recorded as demandable from him under this Act, unless it shall be proved in any suit instituted by such under-tenant or *raiyat* to contest his liability to pay the same that such rent has not been assessed in accordance with the provisions of this Act.

But nothing in clause (c) of section 7 of this Act or in this section shall be held to limit the discretion of the Court in determining in any suit under this section the rent of an under-tenant of the class described in the said clause (c).

No suit under this section shall be instituted otherwise than within four months after the publication of the *jamabandi*, or extracts as aforesaid, in the village in which the lands which are the subject of the suit or any part thereof are situated.

Procedure in
suits to
contest rent
recorded as
demandable.

11. In all suits instituted to contest the rent recorded as demandable under this Act the Court shall, if it modifies or sets aside such rent, proceed to determine the rent payable by the plaintiff in accordance with this Act, and, if any arrears of rent at the rates determined by the Court are found to be due, shall make a decree in favour of the defendant for such arrears, with such costs as may seem proper.

Enhancement
when to take
effect.

12. If publication of the copy of a *jamabandi* or of extracts therefrom as provided in section 9 of this Act is made within the first six months of the year of the era current in the district, the enhancement may take effect from the beginning of the year in which such publication may have been made; otherwise it shall take effect from the beginning of the next following year.

of 1879.]

(Secs. 13, 14.)

13. Rent recorded as demandable under this Act, or fixed by a final decree in any suit as aforesaid, shall not be liable to enhancement until ten years shall have elapsed from the date on which the settlement took effect, or until the period of the settlement shall have expired, whichever may first occur.

Rent to hold good for ten years or until expiration of settlement.

14. The provisions of this Act shall apply to all settlement proceedings under Regulation 7 of 1822¹ which may have been confirmed after the commencement of Bengal Act 3 of 1878² or which may hereafter be confirmed or sanctioned by the Revenue-authorities from time to time empowered in that behalf by the Lieutenant-Governor³, whether such proceedings shall have been commenced before or after the commencement of the said Act.

Application of Act.

¹ The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. I of this Code

² Ben. Act 3 of 1878 was repealed by s. 2 of this Act, noted *ante*, p. 395

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code

BENGAL ACT 9 OF 1879

(THE COURT OF WARDS ACT, 1879).

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SECTION.

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BENGAL ACT 9 OF 1879

(THE COURT OF WARDS ACT, 1879)¹.

(30th July, 1879.)

An Act to amend the law relating to the Court of Wards.

Whereas it is expedient to amend the law relating to the Court of Wards within the territories under the administration of the Lieutenant-Governor of Bengal²; It is enacted as follows :—

Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Court of Wards Act, 1879 :
It extends to all the territories under the administration of the Lieutenant-Governor of Bengal,³ including the Scheduled

Short title.

Extent.

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1878, Pt. IV, p. 76; for Report of Select Committee, see *ibid.*, 1879, Pt. IV, p. 31; for further Report of Select Committee, see *ibid.*, p. 47; and for Proceedings in Council, see *ibid.*, 1878, Supplement, pp. 317, 343 and 402, *ibid.*, 1879, Supplement, pp. 6, 332, 400 and 441.

LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal—see section 1; but its application is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (3), printed in Vol. I of this Code.

ANNOTATED REPRINT.—For an annotated reprint of this Act, see the Bengal Wards Manual, 1909, p. 11.

Part III of the Act is reprinted in the Sale Law Manual, 1906, pp. 122, 123.

AMENDING ACTS.—Bengal Act 8 of 1881 and Act 4 of 1892 are to be read with and taken as part of Bengal Act 9 of 1879—see Ben. Act 3 of 1881, s. 1 *post*, p. 628, and Act 4 of 1892, s. 1, in Vol. I of this Code.

OTHER ACTS AS TO WARDS.—As to wards, see also—

the Indian Majority Act, 1875 (9 of 1875), in General Acts, 1868-78, Ed. 1909, p. 477;
the Guardians and Wards Act, 1890 (8 of 1890), in General Acts, 1887-97, Ed. 1908, p. 206;
and
the Indian Lunacy Act, 1912 (4 of 1912).

TENANCY LAW.—Where the Bengal Rent Act, 1859 (10 of 1859), is in force, Managers of the Court of Wards have powers of distraint thereunder—see Act 10 of 1866, s. 114, in Vol. I of this Code.

The Bengal Tenancy Act, 1885 (8 of 1885), does not affect any enactment regulating the procedure for the realisation of rents in estates under the management of the Court of Wards—see Act 8 of 1885, s. 195 (5), in Vol. I of this Code.

As to the appointment of the Court of Wards to be a Manager under the Bengal Tenancy Act, 1885, see ss. 95 and 97 of that Act, in Vol. I of this Code.

As to the application of the Bengal Public Demands Recovery Act, 1913 (Ben. Act 2 of 1913), to arrears of rent or of other demands recoverable as rent, in the case of property under the charge of the Court of Wards, see s. 3 (6) and Sch. I of the former Act, in Vol. III of this Code.

FURTHER ENACTMENTS.—The Bengal Wills and Intestacy Regulation, 1799 (5 of 1799), does not affect the jurisdiction of the Court of Wards—see s. 3 of that Regulation, in Vol. I of this Code.

As to the application of Ben. Act 9 of 1879 to settled estates, see the Bengal Settled Estates Act, 1904 (Ben. Act 8 of 1904), ss. 34, 35, in Vol. III of this Code.

As to the payment of income-tax by the Court of Wards, see the Indian Income-tax Act, 1896 (3 of 1896), ss. 75, 43 and 44, in General Acts, 1879-86, Ed. 1909, pp. 561, 567, 568.

² This includes the present Presidency of Fort William in Bengal and other territory.

(Part I.—Preliminary.—Secs. 2, 3.)

Districts of Bengal as defined in the Scheduled Districts Act. 14 of 1874.
1874¹.

(Commencement). Rep. by the Repealing and Amending Act, 1897 (5 of 1897).

Repeal and
savings.

2. Bengal Act 4 of 1870 (the Court of Wards Act), section 11 of Act 35 of 1858², sections 12, 14 and 15 of Act 40 of 1858³, and so much of section 21 of Act 40 of 1858³ as provides that the Civil Court may direct the Collector to take charge of an estate, are hereby repealed.

All persons and properties which at the commencement of this Act are under the charge of the Court of Wards, as constituted by Bengal Act 4 of 1870, shall be deemed to be under the charge of the Court of Wards, as constituted by this Act.

And all persons and properties which at the commencement of this Act are under the charge of the Collector by virtue of an order of the Civil Court under section 11 of Act 35 of 1858², or under section 12, section 14 or section 21 of Act 40 of 1858³, shall from such commencement be deemed to be under the charge of the Court of Wards.

And all rules prescribed, orders or appointments made, and agreements executed under the Court of Wards Act, 1870, and now in force, shall (so far as they are consistent with this Act) be deemed to be respectively prescribed, made and executed under this Act.

Ben. Act
1870.

And all orders and appointments made by Collectors under Act 35 of 1858² or Act 40 of 1858³ and now in force, shall (so far as they are consistent with this Act) be deemed to be made under this Act.

* *

Interpret-
ation.

3. In this Act, unless there be something repugnant in the subject or context,—

"Collector."

"Collector" includes any officer in charge of the revenue-jurisdiction of a district:

"the Court."

"the Court" means the Court of Wards;
or, when the Court of Wards has delegated any of its powers to a Commissioner or Collector or any other person, it means, in respect of such powers, the Commissioner or Collector or person to whom they are delegated:

"Estate."

"estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land-revenue⁴ [and includes a share in or of an

¹ Printed in General Acts, 1868-78, Ed. 1909, p. 441.

² The Lunacy (District Courts) Act, 1858. It has been repealed entirely by the Indian Lunacy Act, 1912 (4 of 1912).

³ The whole of Act 40 of 1858 was repealed by the Guardians and Wards Act, 1890 (8 of 1890).

⁴ The remainder of s. 2 (as to pending suits and proceedings) was repealed by the Repealing and Amending Act, 1908 (1 of 1908, now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II), and is omitted.

⁵ These words in square brackets in the definition of "estate" were added by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 2, in Vol. I of this Code.

of 1879.]

(Part I.—Preliminary.—Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 4-7.)

estate other than an undivided share held in coparcenary as the property of a Hindu joint family governed by the *Mitakshara* or *Mithila* law]:

"minor" means a person who has not completed his age of "Minor." twenty-one years:

"section" means a section of this Act:

"ward" means any person who is under the charge of the Court of Wards, or whose property is under such charge. "Section." "Ward."

4. Nothing contained in this Act shall affect any of the provisions of Act 34 of 1858¹ or the jurisdiction, as respects infants, of any High Court of Judicature.

Saving of Act 34 of 1858 and of jurisdiction of High Court as respects infants.

PART II.

CONSTITUTION, JURISDICTION AND POWERS OF THE COURT OF WARDS.

5. The Board of Revenue² shall be the Court of Wards for the territories to which this Act extends.

It shall deal with every person and every property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Court, in accordance with the provisions of this Act.

Constitution and general duties of Court of Wards.

6. Proprietors of estates shall be held disqualified³ to manage their own property when they are—

(a) females declared by the Court incompetent to manage their own property;

Disqualified proprietors.

(b) persons declared by the Court to be minors;

(c) persons adjudged by a competent Civil Court to be of unsound mind, and incapable of managing their affairs;

(d) persons adjudged by a competent Civil Court to be otherwise rendered incapable by physical defects or infirmities of managing their own property;

‘[(e) persons as to whom the Local Government has declared, on their own application, that they are disqualified, and that it is expedient in the public interest that their estates should be managed by the Court.]

7. Whenever the sole proprietor of an estate, or all the joint proprietors of an estate, are disqualified as provided in

Jurisdiction of Court over disqualified proprietors.

¹ The Lunacy (Supreme Courts) Act, 1858. It has been entirely repealed by the Indian Lunacy Act, 1912 (4 of 1912).

² As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

³ As to ascertainment of disqualification, see Part IV, post, p. 421.

⁴ Clause (e) was added to s. 6 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 2, in Vol. I of this Code.

(Part II.—Constitution, Jurisdiction and Powers of the
Court of Wards.—Secs. 8-9A.)

the last preceding section, the Court shall have power to take charge of all the property of every such proprietor or joint proprietor within its jurisdiction, and of the person of any such proprietor or joint proprietor who is resident within its jurisdiction; and also of the person and property of any minor member of the family of any such proprietor or joint proprietor who has an immediate or reversionary interest in the property of such proprietor or joint proprietor:

¹ [Provided that the Court shall not be empowered to take charge of the person of a proprietor disqualified on his own application under clause (c) of section 6.]

Court when bound to give up charge.

8. Whenever the circumstances of any ward become such that the Court could not take charge of him or of his property if he were not under its charge already, the Court shall be bound to release from its charge such person and his property.

Discretion of Court as to taking and keeping-charge.

9. The Court may in its discretion, in any case in which it is empowered by this Act to take charge of the person and property of any disqualified proprietor,—

- (a) take charge of such property without taking charge of such person;
- (b) refrain from taking charge of any such person or property;
- (c) at any time withdraw from such charge, if taken;
- (d) at any time resume such charge, after having withdrawn from it.

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²9A.(1) When the Court shall withdraw from the charge of such property,—

Effect of withdraw from char

- (a) such charge shall terminate with effect from the date fixed in accordance with the provisions of section 65;

¹ This proviso was added to s. 7 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 4, in Vol. I of this Code.

² The clauses of section 9 which were added by the Court of Wards Act (Bengal) Amendment Act, 1906 (4 of 1906), s. 6 (printed in Vol. I of this Code), were repealed, in Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 2, and, in Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act 8 of 1907), s. 3(1), and are omitted. Section 5 of Act 4 of 1892 was, in turn, repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 6, Sch. IV.

³ Section 9A was added, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act 8 of 1907), s. 2(2), in Vol. III of this Code.

*Part II.—Constitution, Jurisdiction and Powers of the
Court of Wards.—Sec. 10.)*

(b) the owner of the said property shall be restored to the possession thereof from the said date, subject to any contracts entered into by the Court for the preservation or benefit of such property:

(c) the claims referred to in section 10A, subsection (5), shall revive, unless the Court in its discretion shall otherwise direct.

(2) In calculating the periods of limitation applicable to suits to recover claims for interest or claims to recover and enforce debts and liabilities revived under this section, the time during which such charge has continued shall be excluded.

1890. 10. ¹[Whenever a Civil Court is satisfied that an order should be made under section 7 of the Guardians and Wards Act, 1890², appointing a guardian of the person or property of a minor, or both;

Application
by Civil Court
to Court of
Wards to take
charge.

whenever a Civil Court removes, under section 39 of the same Act³, the guardian of a minor,]

or whenever a person has been adjudged, under Act 35 of 1858⁴, to be of unsound mind and incapable of managing his affairs,

if the property of such minor or disqualified proprietor consists, in whole or in part, of land or any interest in land, the Civil Court may apply to the Court of Wards to take charge of the person and property of such minor or disqualified proprietor; and it shall be at the discretion of the Court of

¹ The clauses in square brackets in s. 10 were substituted for the original clauses by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 6, in Vol. I of this Code.

² Printed in the General Acts, 1887-97, Ed., 1909, p. 206.

³ Act 35 of 1858 has been repealed and re-enacted by the Indian Lunacy Act, 1912 (4 of 1912), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 6, in General Acts, 1887-97, Ed. 1909, p. 679.

(Part II.—Constitution, Jurisdiction and Powers of the
Court of Wards.—Sec. 10A.)

Wards to take charge of such person or property, or to refuse to do so.

Nothing contained in sections 12 to 19 (both inclusive) of Act 35 of 1858¹ shall be held to apply to persons or properties under the charge of the Court of Wards

Notice to
creditors.

²10A. (1) Whenever the Court of Wards assumes charge of any person or property under section 7 or section 10, it shall publish, in the manner provided in section 64A, a notice calling upon all creditors having claims against the ward or his immovable property to submit the same in writing to the Court, at a place to be named in the notice, within six months from the date of the publication of the notice aforesaid.

³10A. (1) Whenever the Court of Wards assumes charge of any person or property under section 7 or section 10, it shall publish, in the manner provided in section 64A, a notice calling upon all creditors having claims against the ward or his immovable property to submit the same in writing to the Court, at a place to be named in the notice, within six months from the date of the publication of the notice aforesaid.

Notice to
creditors &
inquiry in
liabilities.

(2) *The Court shall also make such inquiry as it thinks fit to ascertain the particulars of all claims against the ward or his property, and may, for the purpose of the said inquiry, require the ward, or any person or persons who may have acted as his guardian, committee, or other legal curator before the Court assumed charge of his person or property, to file a complete statement of all debts and liabilities to which the ward is subject or with which his property is charged.*

¹ Act 35 of 1858 has been repealed and re-enacted by the Indian Lunacy Act, 1912 (1 of 1912), and this reference should now be construed as a reference to ss. 78 to 81 of the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 678.

² This section 10A. was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 3, in Vol. III of this Code.

The differences in s. 10A, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

³ This section 10A. was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (B. B. & A. Act 3 of 1907), s. 3, in Vol. III of this Code.

of 1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10A.)

(3) A copy of the notice published under sub-section (1) shall be sent by registered post to all creditors whose names and addresses are ascertained in the course of the inquiry made under sub-section (2).

(4) After the expiration of six months from the date of the publication of the notice specified in sub-section (1), the Court shall frame a schedule of all claims submitted under sub-section (1) or ascertained in the course of the inquiry under sub-section (2):

Provided that entry in this schedule shall not be deemed to be sufficient evidence to charge any person with liability.

(2) Every such claim (other than a claim on the part of the Government) not submitted to the Court in compliance with the provisions of sub-section (1), shall, save in the case provided for by section 10E, sub-section (2), clause (c), notwithstanding any law, contract, decree or award to the contrary, cease to carry interest from the date of the expiry of the period aforesaid:

Provided that, if the Court is satisfied that the creditor was prevented by any sufficient cause from complying with the provisions of sub-section (1), it may consider and allow, either wholly or in part, his claim for interest at any time after the date of the expiry of the period aforesaid.

(5) Every claim, other than a claim on the part of Government, not entered in the schedule framed under the preceding sub-section, shall, save in the case provided for by section 9A, sub-section (1), clause (c), be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged:

Provided that the Court, if it thinks fit, may receive a claim at any time after the framing of the said schedule, or may refuse to receive it; and the Court may, if it receive the claim, disallow the payment of interest in whole or in part, and may impose such terms and conditions, as to the time of payment of the sum which it may find to be payable under the claim, as to the Court may seem fit.

[Ben. Act 9]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10B.)

(6) *No order of the Court under the preceding sub-section, refusing to receive a claim, or disallowing interest, or imposing terms or conditions, shall be liable to be contested or set aside in any Civil Court.*

creditors to
furnish full
particulars
and docu-
ments.

10B. (1) Every creditor submitting his claim in compliance with the provisions of section 10A, sub-section (1), shall furnish, along with his written statement of claim, full particulars thereof; and shall, within such time as the Court may appoint, produce all documents which are in his possession, power or control (including entries in books of account) on which he relies to support his *claim*, together with a true copy of every such document.

(2) The Court shall, after marking, for the purpose of identification, every original document so produced, and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document, which to the knowledge of the creditor is in his possession, power or control, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the ward, whether during the continuance of the management or afterwards, in any

Creditors to
furnish full
particulars
and docu-
ments.

10B. (1) Every creditor submitting his claim in compliance with the provisions of sub-section (1) *or the proviso to sub-section (5) of section 10A* shall furnish, along with his written statement of claim, full particulars thereof; and shall, within such time as the Court may appoint, produce all documents which are in his possession, power or control, including entries in books of account, on which he relies to support his *claims*, together with a true copy of every such document.

(2) The Court shall, after marking, for the purpose of identification, every original document so produced, and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document, which to the knowledge of the creditor is in his possession, power or control, is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the ward, whether during the continuance of the management or afterwards, in any

¹ This section 10B was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act I of 1906), s. 3, in Vol. III of this Code.

The differences in s. 10B as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

² This section 10B was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act 3 of 1907), s. 3, in Vol. III of this Code.

[1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 10C, 10D.)

suit brought by the creditor or by any person claiming under him in respect of such claim.

suit brought by the creditor or by any person claiming under him in respect of such claim, *unless good cause be shown, to the satisfaction of the Civil Court entertaining the suit, for the non-production of the document as required by sub-section (1); and the Judge receiving any such document shall record his reasons, or so doing.*

¹10C. If a Civil Court has directed any process of execution to issue against any immovable property of a ward, or the rents thereof, or any crops standing thereon, the Court of Wards may, at any time within one year after it assumed² charge of such property, apply to the Civil Court to stay proceedings in the matter of such process; and the Civil Court may, on such terms regarding interest or compensation for delay as may appear to it to be just and reasonable, stay such proceedings for such period as it may deem fit.

Stay of proceedings of Civil Courts.

Adjudication of claims.

³10D. (1) *On receipt of all claims submitted in compliance with the provisions of sections 10A and 10B*, the Court shall proceed to investigate such claims, and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

(2) When the Court has admitted any claim under sub-section (1), it may make to the creditor a proposal in writing for the reduction of the claim,

⁴10D. (1) *On the framing of the schedule under section 10A, sub-section (4)*, the Court shall proceed to investigate such claims, and shall decide which of them are to be wholly or partly admitted or wholly or partly rejected, as the case may be, and shall communicate its decision in writing to each claimant concerned.

Adjudication of claims.

(2) When the Court has admitted any claim under sub-section (1), *or the proviso to sub-section (5)*, it may make to the creditor a proposal in writing

¹ This section 10C was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 3, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act 8 of 1907), s. 3, in Vol. III of this Code.

² In E. B. & A. Act 8 of 1907, s. 3, the word used here is "assumes".

³ This section 10D was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 3, in Vol. III of this Code.

The differences in s. 10D, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁴ This section 10D was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. & A. Act 8 of 1907), s. 3, in Vol. III of this Code.

(Part II.—*Constitution, Jurisdiction and Powers of the Court of Wards.*—Sec. 10D.)

or of the rate of interest to be paid in future, or of both; and, if such proposal, or any modification of it, is accepted by the creditor and his acceptance is finally recorded and attested by the Court, it shall be conclusively binding upon the creditor and upon the ward:

Provided that if, when the superintendence of the property by the Court is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the creditor shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a ward or his property which has been *submitted to the Court of Wards*:

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

(4) In calculating the period of limitation applicable to suits for the recovery of a claim which has been *submitted to the Court of Wards*, the period from the date of submission of the claim up to the date of the communication of the Court's decision thereon

for the reduction of the claim or of the rate of interest to be paid in future, or of both; and, if such proposal, or any modification of it, is accepted by the creditor and his acceptance is finally recorded and attested by the Court, it shall be conclusively binding upon the creditor and upon the ward:

Provided that if, when the superintendence of the property by the Court is relinquished or otherwise terminates, any portion of the claim reduced as aforesaid is still unsatisfied, the creditor shall be entitled to recover a sum bearing the same proportion to the original claim admitted under sub-section (1) or the proviso to sub-section (5) as the unsatisfied portion bears to the reduced claim.

(3) Subject to the provisions of sub-section (2), nothing in this section shall be construed to bar the institution of a suit in a Civil Court for the recovery of a claim against a ward or his property which has been *entered in the schedule framed under section 10A, sub-section (4)*:

Provided that no decision of the Court of Wards under this section shall be proved in any such suit as against the defendant.

(4) In calculating the period of limitation applicable to suits for the recovery of a claim which has been *entered in the schedule framed under section 10A, sub-section (4)*, the period from the date of submission of the claim up to the date of the communication

[1879].

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Sec. 10E.)

to the creditor shall be excluded.

of the Court's decision thereon to the creditor shall be excluded.

Relinquish-
ment of
inextricably
involved
estates.

¹10E. (1) The Court of Wards may, after making an investigation under section 10D, when it appears to the Court that the estate is involved beyond all hope of extrication, or for any other sufficient reason, by notice published in the manner provided in section 64A, declare that it will, on a date to be fixed by the notice, relinquish charge of the property and person (or of the property, as the case may be) of the ward under this section.

(2) On the date so fixed,—

- (a) such charge shall terminate;
- (b) the owner of the said property shall be restored to the possession thereof, subject to any contracts entered into by the Court of Wards for the preservation or benefit of such property; and
- (c) the claims for interest barred under section 10A, subsection (2), shall revive in case the debt or liability in respect of which the interest is claimed be not then barred by any law of limitation.

¹Section 10E was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 3, in Vol. III of this Code.

(Part II.—*Constitution, Jurisdiction and Powers of the Court of Wards.*—Secs. 11-13.)

(3) In calculating the periods of limitation applicable to suits to recover claims for interest revived under this section, the time during which such charge has continued shall be excluded.

Procedure
when any of
joint
proprietors
ceases to be
disqualified.

¹ 11. Whenever one or more of the joint proprietors of whose properties the Court has taken charge ceases to be subject to the jurisdiction of the Court, the Court may retain charge of the persons and properties of the still disqualified proprietors during the continuance of their disqualification.

And, in case any person entitled to any property jointly with any disqualified proprietor shall consent thereto, the Court may retain or resume the charge of the property of such proprietor or any part thereof so long as the property of any such disqualified proprietor as aforesaid remains in charge of the Court.

Withdrawal
from charge
by Court.

12. The Court of Wards may at any time withdraw from the charge of any person and property taken under section 10 or under section 11, and from the charge of any person or property ² [which either before or after the commencement of this Act was or is placed] under the charge of the Collector by a Civil Court under section 12, section 14 or section 21 of Act 40 of 1858³, or under section 11 of Act 35 of 1858⁴, [or under any other enactment for the time being in force]⁵:

Provided that it shall give notice of its intention to withdraw to the Civil Court concerned, and that such notice shall be given not less than two months before the Court of Wards shall so withdraw.

Procedure
when
succession
to property of
ward disputed.

13. Whenever, on the death of any ward, the succession to his property or any part thereof is in dispute, the Court may either direct that such property or part thereof be made over to any person claiming such property, or may retain charge of the same until the right to possession of the claimant has been determined under Bengal Act 7 of 1876⁶, or until the dispute has been determined by a competent Civil Court.

¹ This section was substituted for the original section 11 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892) s. 7, in Vol. I of this Code.

² These words in square brackets were substituted for the words "which before the commencement of this Act was placed" by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 8, in Vol. I of this Code.

³ Act 40 of 1858 was repealed by the Guardians and Wards Act, 1890 (8 of 1890).

⁴ The Lunacy (District Courts) Act, 1858. It has been repealed by the Indian Lunacy Act, 1912 (4 of 1912).

⁵ These words in square brackets were added by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 8, in Vol. I of this Code.

⁶ The Bengal Land Registration Act, 1876. It is printed *ant.*, p. 346.

of 1879.]

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 13A, 14.)

Power of
Court to retain
charge of
property of
disqualified
proprietor
until discharge
of debts.

13A. If, when any disqualified proprietor dies, or ceases to be disqualified within the meaning of this Act, there remain undischarged any debts or liabilities which were incurred by, or are due from, such proprietor, or which are a charge upon his property or any part thereof,

then, notwithstanding anything contained in the foregoing sections, the Court may either withdraw from the charge of such property or retain such charge until such debts and liabilities, as the Court considers necessary to be discharged, together with all interest due thereon, have been discharged :

Provided that, after the death of a proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on his representative.

14. Subject to the provisions of this Act, the Court—

- (a) may, through its manager, do all such things requisite for the proper care and management of any property of which it may take or retain charge under this Act, or which may be placed under its charge by order of a competent Civil Court, as the proprietor of any such property, if not disqualified, might do for its care and management, and
- (b) may, in respect of the person of any ward, do all such things as might be lawfully done by the legal guardian of such ward.

Power of
Court to retain char
of property
disqualified
proprietor
until dischs
of debts.

13A. If, when any disqualified proprietor *whose property has been taken charge of by the Court* dies, or ceases to be disqualified within the meaning of this Act, there remain undischarged any debts or liabilities which were incurred by, or are due from, such proprietor, or which are a charge upon his property or any part thereof,

then, notwithstanding anything contained in the foregoing sections, the Court may either withdraw from the charge of such property or retain such charge until such debts and liabilities, as the Court considers necessary to be discharged, together with all interest due thereon, have been discharged :

Provided that, after the death of *such* proprietor, the Court shall not retain charge on account of any debt or liability which has been declared by a competent Civil Court not to be binding on his representative.

General
powers of
Court.

¹ This section 13A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 4, in Vol. III of this Code.

The differences in s. 13A, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

² This section 13A was inserted for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 5 of 1907), s. 5, in Vol. III of this Code.

(Part II.—Constitution, Jurisdiction and Powers of the Court of Wards.—Secs. 15-20.)

Exercise through others of powers conferred on Court.

Delegation of powers.

Establishments and expenses.

Power to manage property.

When Court may order property to be formed into separate estate.

Appointment of managers and guardians.

15. The Court may exercise all or any powers conferred on it by this Act through the Commissioners of the Divisions and the Collectors of the districts in which any part of the property of the disqualified proprietor may be situated, or through any other person whom it may appoint for such purpose.

The Court may, with the sanction of the Lieutenant-Governor,¹ from time to time delegate any of its powers to such Commissioners or Collectors or other person as aforesaid, and may at any time, with the like sanction, revoke such delegation.

16. The Court may from time to time order such establishments to be entertained and expenses to be incurred as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act; and may order that such expenses, inclusive of all salaries, gratuities and payments on account of the leave-allowances of such establishments, be charged against any one or more properties for the purposes of which such establishments are, or have been, entertained or such expenses have been incurred.

17. (*General contribution for general purposes*). *Rep. by the Government Management of Private Estates Act, 1892 (10 of 1892), s. 9.*

18. The Court may sanction the giving of leases or farms of the whole or part of any property under its charge, and may direct the mortgage or sale of any part of such property, and may direct the doing of all such other acts as it may judge to be most for the benefit of the property and the advantage of the ward.

19. If the Court thinks it expedient to direct the sale or mortgage of any part of an estate of which the ward is the sole proprietor, it may order the Collector to partition off such part into a separate estate; and the demand of land-revenue and of the cesses for which the original estate was liable shall be assessed upon and divided between the two separate estates so formed, respectively, in such manner as the Court, with the sanction of the Lieutenant-Governor¹, may direct.

20. The Court may appoint one or more managers for the property of any ward, and one or more guardians for the care of the person of any ward, under the charge of the Court, and may control and remove any manager or guardian so appointed.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code

² This section was substituted for the original section 16 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 8, *post* p. 623. The original section ran thus:—

"16. The Court may from time to time order such establishments to be entertained and expenses to be incurred, as it shall consider requisite for the care and management of the persons and properties under its charge, for superintendence, for the audit of accounts, and generally for all purposes of this Act,

and may order that the cost of any such establishment and any such expenses be charged against any one or more properties for the purposes of which they are entertained or incurred."

of 1879.]

(Part II.—*Constitution, Jurisdiction and Powers of the Court of Wards*.—Part III.—*Protection from Sale of certain Estates*.—Secs. 21-23.)

On any disqualified proprietor becoming a ward, the Court may, at its discretion, confirm or refuse to recognize any appointment of a person to be guardian of such disqualified proprietor which may have been made by a will.

21. The Court may make such orders as to it may seem fit in respect of the custody, education and residence of a minor ward, and such minor members of the ward's family as are under its charge, and in respect of the custody and residence of any ward, not being a minor, whose person is under the charge of the Court.

Custody,
education and
residence of
wards.

22. The Court shall allow, for the support of each ward and of his family such monthly sum as it thinks fit (if any) with regard to the rank and circumstances of the parties.

Allowance for
ward and his
family.

PART III.

PROTECTION FROM SALE OF CERTAIN ESTATES.

23. *Clause 1.*—Except as hereinafter provided by section 23A, every estate, and, subject to the provisions of section 14 of Act 11 of 1859¹, every share or part of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act 7 of 1876², shall be exempt from sale for arrears of Government revenue which have accrued whilst such estate, share or part has been under the charge of the Court:

Estate under
charge of
Court exempt
from sale.

Provided that all such arrears of revenue shall be the first charge upon the sale-proceeds of any estate, share or part which may be sold for any other cause than for such arrears of revenue.

Clause 2.—If at the time when such estate, share or part ceases to be under the charge of the Court of Wards, an arrear of revenue is due on account thereof, the Collector may attach such estate, share or part and collect the rent, cesses and other demands due, and all arrears thereof, managing such

Recovery of
arrears of
revenue due at
time when
estate ceases
to be under
charge of
Court.

¹ These sections 23 and 23A were substituted for the original section 23 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 4, *post*, p. 628. The original section ran thus:—

"23. Every estate, and, subject to the provisions of section 14 of Act 11 of 1859, every part or share of an estate for which a separate account has been opened under section 10 or section 11 of the said Act, or under section 70 of Bengal Act 7 of 1876, shall, whilst it is under the charge of the Court, be exempt from sale for arrears of revenue:

"Provided that all arrears of revenue shall be the first charge upon the proceeds of any such estate, part, or share, sold for any other cause than for arrears of revenue while under such charge."

² The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

³ The Land Registration Act, 1876. It is printed *ante*, p. 846.

(Part III.—Protection from Sale of certain Estates.—
Secs. 23A-25.)

estate, share or part either directly or through a manager, or by farming it for a period not exceeding five years, as he may think fit:

Provided that, when such estate, share or part has been attached under the provisions of this clause, the proceeds shall be paid to the Collector; and the Collector, after deducting the claims of Government for revenue and other public demands, together with any interest which has accrued upon such public demands other than Government revenue, and the charges of management due up to the date of making such deduction, shall release such estate, share or part from attachment, and pay any balance of the proceeds still remaining in his hands to the proprietor of such estate, share or part or to his duly constituted agent, and shall furnish such proprietor or agent with an account of the receipts and expenditure extending over the time when such estate, share or part was under attachment.

Conditions under which estate may be sold for arrears of revenue accrued under Court.

23A. Notwithstanding anything in clause 5, section 8, Regulation 1 of 1793,¹ or in section 23 of this Act, contained, any estate, share or part of an estate on which an arrear of revenue has accrued while under the charge of the Court, may at any time be sold under the provisions of the law² for the time being in force for the recovery of arrears of Government revenue, if the Court has certified in writing that the interests of the ward require that such estate, share or part be so sold, and has stated in such writing the reasons upon which it has arrived at such conclusion.

Restriction on sale for arrears of revenue of estate belonging to minor.

24. No estate the sole property of a minor or of two or more minors, and descended to him or them by the regular course of inheritance, or by virtue of the will of, or some settlement made by, some deceased owner thereof, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until such minor or one of such minors has completed his age of twenty-one years; but all arrears of revenue shall be the first charge upon the proceeds of such estate if the estate is sold for any other cause during such minority.

Power of Collector to attach such estate.

The Collector may, on an arrear so accruing on any such estate, attach the estate and collect the rents and all arrears of rent due, managing the estate either directly or through a manager or by farming it, as he may think fit, for a period not exceeding ten years, nor extending beyond the time when such minor or one of such minors completes his age of twenty-one years.

Section 24 not to apply unless notice given.

25. The exemption from sale for arrears of revenue given by section 24 shall only apply to cases in which a written

¹ See foot-note 1 on page 419, *ante*.

² The Bengal Permanent Settlement Regulation, 1793. It is printed in Vol. I of this Code.

³ See now the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), in Vol. III of this Code.

of 1879.]

(Part III.—Protection from the Sale of certain Estates.—

Part IV.—Ascertainment of Disqualification.—Secs. 26-29.)

notice of the fact that the estate is the sole property of one or more minors, and entitled to such exemption, has been served on the Collector before the sale.

26. When an estate has been farmed under the provisions of section 24, the proceeds of such farm shall be paid to the Collector; and the Collector, after deducting the amount of the claims of the Government for revenue and other public demands, and the charges of management, shall either pay the proceeds to the person authorized to receive them for the proprietor, or shall dispose of them in any of the modes mentioned in section 49 or in section 50.

Application of proceeds of estate farmed under section 24.

PART IV.

ASCERTAINMENT OF DISQUALIFICATION.

27. Whenever any Collector has reason to believe that any person residing in his district, or being the proprietor of an estate borne on the revenue-roll of his district, should be declared or adjudged to be a disqualified proprietor under section 6, he shall make such inquiry as he may deem necessary; and, if satisfied that such person should be so declared or adjudged, shall make a report of the same to the Court;

Procedure for ascertaining and declaring disqualification.

and the Court shall, on receipt of such report, make such order consistent with this Act as may seem to it expedient.

28. Nothing in section 27 shall prevent the Court or the Local Government from putting the provisions of this Act in force without any report from the Collector.

Power to enforce provisions of Act without report.

29. Whenever any Collector receives information that the sole proprietor of an estate which is borne on the revenue-roll of his district has died,

Powers of Collector as to preservation of property on death of a proprietor whose heirs should be declared disqualified.

or that the sole proprietor of any estate has died within his district,

and such Collector has reason to believe that the heirs of such proprietor should be declared or adjudged to be disqualified under section 6, he may take such steps and make such orders for the safety and preservation of the movable property of such heirs, and of all deeds, documents or papers relating to the property of such heirs, as to him may seem fit.

Such Collector may call upon any other Collector in whose jurisdiction any such movable property, or any such deeds, documents or papers may be, to take charge of the same; and thereupon such other Collector shall have the same powers with respect to such property, deeds, documents and papers within his district as are conferred by this section on the first mentioned Collector.

[Ben. Act 9]

(Part IV.—Ascertainment of Disqualification.—Secs. 30-33.)

Recovery of expenses if property is not taken under charge of Court.

If the property is not afterwards taken under the charge of the Court, all expenses incurred by a Collector acting under this section shall be recoverable as arrears of revenue from the owner of such property or the person or persons whom the Collector shall find to be in possession of such property, and shall constitute a demand under Bengal Act 7 of 1868,¹ or any similar law² for the time being in force.

Production of minor proprietor, and order for his temporary custody.

30. A Collector acting under the last preceding section may direct that any person who has the custody of a minor heir of any such deceased proprietor shall produce such minor before such Collector or before any other Collector on a day fixed; and the Collector before whom the minor is so produced may make such order for the temporary custody and protection of such minor as to him may seem fit.

If the minor is a female, she shall not be brought into the presence of the Collector, but the Collector may take such steps for her identification as he may think fit.

Application to Civil Court in case of lunatics.

31. If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court, is reported by a Collector to be of unsound mind and incapable of managing his affairs, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply, in pursuance of the provisions of Act 35 of 1858,³ to the Civil Court of the district within the jurisdiction of which such proprietor may reside.

Application to Civil Court to make inquiry regarding disqualification on ground of physical defect or infirmity.

32. If a sole proprietor of an estate, who does not reside within the local limits of the ordinary original civil jurisdiction of the High Court, is reported by a Collector to be incapable of managing his property on the ground of some physical defect or infirmity other than unsoundness of mind, the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the district within which such person may be residing; and, upon such Collector so applying, such Civil Court shall inquire into and determine the question as to the alleged incapacity.

Similar application when proprietor resides within original jurisdiction of High Court or beyond Bengal.

33. If a sole proprietor of an estate, who is resident within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal, or resident beyond the territories administered by the Lieutenant-Governor of Bengal⁴, shall be reported by a Collector to be incapable of managing his property by reason of some physical defect or infirmity other than unsoundness of mind,

¹ The Bengal Land-revenue Sales Act, 1868. It is printed ante, p. 157.

² See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of this Code.

³ Act 35 of 1858 has been repealed and re-enacted by the Indian Lunacy Act, 1912 (4 of 1912), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1908, p. 579.

⁴ This includes the present Presidency of Fort William in Bengal and other territory.

of 1879.]

(Part IV.—Ascertainment of Disqualification.—Secs. 34, 34A.)

the Court may order the Collector making such report, or such other Collector as the Court may appoint, to apply to the principal Civil Court of the 24-Parganas, or to such other Civil Court as the Lieutenant-Governor,¹ on application made to him by the Collector in that behalf, may determine.

Such Civil Court shall thereupon inquire into and determine the question as to the alleged incapacity.

34. When any inquiry is instituted by a Civil Court under section 32 or section 33, such Court shall, for the purposes of making such inquiry, have the powers conferred, and proceed in the manner prescribed, by Act 35 of 1858² with respect to the inquiries directed to be made by the said Act.

Powers and duties of Courts when inquiry is instituted under section 32 or 33.

The Civil Court shall transmit to the Court of Wards a copy of the order made on each such inquiry; and the Court of Wards shall thereupon, in case the proprietor has been found by the Civil Court to be incapable as aforesaid, make such order, consistent with this Act, as it shall think fit.

The Civil Court shall have, with reference to proprietors who have been adjudged to be incapable as aforesaid, the same powers as are conferred on a Civil Court by section 21 of Act 35 of 1858³, with reference to persons adjudged to be of unsound mind and incapable of managing their affairs.

34A. All expenses incurred by a Collector in taking action under section 31, section 32 or section 33 in respect of any person shall, if the property of such person is not taken under the charge of the Court, be recoverable from such person or from the person whom the Collector finds to be in possession of such property, *under the procedure provided by the Public Demands Recovery Act, 1895⁴, for the recovery of public demands.*

Recovery of expenses incurred by Collector under sections 31 to 33.

34A. All expenses incurred by a Collector in taking action under section 31, section 32 or section 33 in respect of any person shall, if the property of such person be not taken under the charge of the Court, be recoverable from such person or from the person whom the Collector finds to be in possession of such property, *as if it were an arrear of land-revenue.⁵*

Recovery of expenses incurred by Collector under section 31 to 33.

Ben. Act 1 of 1895.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² Act 35 of 1858 has been repealed and re-enacted by the Indian Lunacy Act, 1912 (4 of 1912), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

³ This reference should now be construed as a reference to s. 82 of the Indian Lunacy Act, 1912 (4 of 1912).

⁴ This section 34A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 5, in Vol. III of this Code.

The differences in section 34A, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁵ Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), and this reference should now be construed as a reference to the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

⁶ This section 34A was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 8 of 1907), s. 7, in Vol. III of this Code.

⁷ See Bengal Act 8 of 1918, in Vol. III of this Code.

(Part V.—*Procedure after Ascertainment of Disqualification.*
—Part VI.—*Management and Guardianship.*—Secs. 35-38.)

PART V.

PROCEDURE AFTER ASCERTAINMENT OF DISQUALIFICATION.

Order
declaring
person or
property to be
under charge
of Court.

35. Whenever the Court has determined to take the person or property of a disqualified proprietor under its charge, whether in accordance with an order of the Civil Court or otherwise, the Court shall make an order declaring the fact and directing that possession be taken of such person and property or of such property on behalf of the Court; and the Court shall be held to be in charge of such property from the time when possession shall have been so taken.

Collector
to take
possession of
movable
property.

36. As soon as conveniently may be after an order is made under the provisions of section 35, the Collector of every district within which any part of the ward's property may be situated, or some person authorized in writing by him in that behalf, shall take possession of all accounts, papers and movable property of the ward, and place under proper custody such portion thereof as he may think necessary.

Any such Collector, or some person authorized as aforesaid, may, in case he has reason to believe that any such account, paper or property is in any room, box or receptacle within any house in the actual possession of the ward, break open the same for the purpose of searching for such account, paper or property.

Additional
powers of
Collector.

37. Any such Collector may also order all persons in the employ of the ward, or all persons who were in the employ of the deceased proprietor from whom the ward has derived his property, to attend before him;

and may order any person to deliver up any accounts, papers or movable property belonging to the ward, or any accounts or papers relating to the ward's property, which the Collector has reason to believe are in such person's possession,

and may order all holders of tenures and under-tenures on such property to produce their titles to such tenures and under-tenures.

PART VI.

MANAGEMENT AND GUARDIANSHIP.

Collector
when to be
deemed
manager.

38. If no manager of the property of a ward is appointed by the Court, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court may appoint in that behalf, shall be competent to do, under the orders of the Court, anything that might be lawfully done by the manager of such property.

of 1879.]

(Part VI.—Management and Guardianship.—Secs. 39–42.)

39. Every manager appointed by the Court shall have power to manage all property which may be committed to his charge, to collect the rents of the land entrusted to him, as well as all other money due to the ward, and to grant receipts therefor;

Powers of manager.

and may, under the orders of the Court, grant or renew such leases and farms as may be necessary for the good management of the property¹.

40. Every manager shall manage the property committed to him diligently and faithfully for the benefit of the proprietor, and shall, in every respect, act to the best of his judgment for the ward's interest as if the property were his own.

General duties of manager.

41. Every manager appointed by the Court shall—

Specific duties of manager.

- (a) have the care of so much of the property of the ward as the Court may direct;
- (b) give such security (if any) as the Court thinks fit, to the Collector, duly to account for all such property and for what he shall receive in respect of such property;
- (c) continue liable to account to the Court, after he has ceased to be manager, for his receipts and disbursements during the period of his management;
- (d) pass his accounts at such periods and in such forms as the Court may direct;
- (e) pay the balance due from him thereon;
- (f) apply for the sanction of the Court to any act which may involve the property in expence not previously sanctioned by such Court;
- (g) sign all papers, deeds, documents and writings which may be executed by him by virtue of his office;
- (h) be entitled to such allowance, to be paid out of the property, as the Court may think fit, for his care and pains in the execution of his duties;
- (i) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

42. A guardian appointed to the care of a ward shall be charged with the custody of the ward, and must look to his maintenance, health, and, if he be a minor, to his education.

General duties of guardian.

43. Every guardian appointed by the Court shall—

Specific duties of guardian.

- (a) give such security (if any) as the Court thinks fit, to the Collector for the due performance of his duty;
- (b) pass his accounts at such periods and in such form as the Court may direct;

¹ As to the grant by the Court of Wards of leases of *ghatali* lands, see the Bengal Ghatali Lands Act, 1880 (8 of 1880), in Vol. I of this Code.

² As to the right of a manager, appointed by the Court of Wards, to vote for the adoption of a scheme for the reclamation or improvement of lands under the Bengal Drainage Act, 1880 (Beng. Act 6 of 1880), see s. 16 (2) of that Act *post*, p. 497.

(Part VI.—Management and Guardianship.—Secs. 44-48).

- (c) pay the balance due from him thereon ;
- (d) continue liable to account to the Court, after he has ceased to be guardian, for his receipts and disbursements during the period of his guardianship ;
- (e) apply for the sanction of the Court to any act which may involve expense not previously sanctioned by the Court ;
- (f) be entitled to such allowance, to be paid out of the property of the ward, as the Court may think fit, for his care and pains in the execution of the duties.

Exclusion of certain interested persons from guardianship.

44. No person who would be the next legal heir of a ward, or would otherwise be immediately interested in outliving a ward, shall be appointed to be his guardian ; but nothing in this section shall apply to the mother of a ward or to a testamentary guardian.

Who to be guardian of female ward.

45. If the ward is a female, a female of the same religion shall, except in the case of a testamentary guardian, be appointed guardian, preference being given to female relatives if any such be eligible.

But no guardian shall ordinarily be appointed or continued for a female ward if she has an adult husband.

Recovery of sums due to the Court.

46. Every sum due to the Court from a manager or guardian or from the sureties of a manager or guardian, or from any officer or servant employed under the Court, or from the sureties of any such officer or servant, shall be recoverable as a demand under Bengal Act 7 of 1868¹ or any similar law² for the time being in force.

Court may order guardian or manager to make over property.

47. The Court may order any past or present manager or guardian, or past or present officer subordinate to a manager or guardian, to deliver up his accounts or any property which may be in his possession within such time as may be fixed by the Court.

Application of moneys received by manager.

48. All moneys received by the manager shall be applied to the purposes hereinafter mentioned, in accordance with such instructions as the Court may from time to time give in that behalf.

Unless the Board of Revenue shall specially otherwise direct, priority shall be given to the purposes included under Class I. over those included in Class II, and priority shall be given to the purposes included in Class II over those included in Class III.

¹ The Bengal Land-revenue Sales Act, 1886. It is printed *ante*, p. 167.

² See now the Bengal Public Demands Recovery Act, 1915 (Ben. Act 8 of 1915), in Vol. III of this Code.

³ This section was substituted for the original section 48 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), s. 5, *post*, p. 328.

of 1879.]

(Part VI.—*Management and Guardianship*.—Sec. 48.)

CLASS I.

The payment of all charges necessary for the maintenance, education and religious observances of the ward and his family,

for the management and supervision of the property of the ward,

and the discharge of the instalments of Government revenue and of all cesses and other public demands from time to time due in respect of such property or any part of such property.

CLASS II.

The payment of all rents, cesses and other demands due to any superior landlords in respect of any land held on behalf of the ward,

the liquidation of debts payable by the ward,

the payment of all expenses which may be necessary to protect the interests of the ward in the Civil Courts or otherwise,

the maintenance in an efficient condition of the estates, buildings and other immovable property belonging to the ward, and

the payment of such religious, charitable and other allowances as were paid out of the proceeds of the property before it came under the charge of the Court, and such allowances and donations befitting the position of the ward's family as the Court may authorize to be paid.

CLASS III.

The improvement of the land and property of the wards and the benefit of the ward and his property generally:

• • • • •

² 49. If the ward is a female of sound mind, who has completed her age of twenty-one years, or a male who has completed his age of twenty-one years, whose property ^{Disposal of surplus moneys.} [is under the charge of the Court under clause (e) of section 6, or under the second clause of section 11], no part of the surplus

¹ The proviso was repealed by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 9, and is omitted.

² This section was substituted for the original section 49 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 5, *post*, p. 628.

As to the application of section 49, see also section 26, *ante*, p. 421.

³ These words in square brackets in s. 49 were substituted for the words "remains under the charge of the Court with his consent under section 11" by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 10, in Vol. I of this Code.

(Part VI.—*Management and Guardianship*—Secs. 49, 50.)

mentioned in the proviso¹ to the section immediately preceding shall be expended by the Court otherwise than in the liquidation of debts or in the improvement of the lands or property as aforesaid.

Any portion of such surplus remaining, after provision has been made for such purposes, shall be paid to such ward :

Provided that, before paying any portion of such surplus to such ward, the Court may deduct therefrom and retain at its disposal any sums which it may consider necessary to retain—

- (1) as a working balance for the management of the property and expenses incidental thereto;
- (2) in order to make provision for any special charges which are expected to become payable on account of the property, and which probably cannot be met from the expected surplus of the following years.

Power to
invest surplus

² 50. If the ward is not a female or ³ [male] as aforesaid, and if any surplus remains after providing, so far as the Court may think fit, for the objects mentioned in ⁴ [section 48], the same shall be applied in the purchase of other landed property, or invested at interest on the security of—

promissory notes, debentures, stock and other securities of the Government of India or of the United Kingdom of Great Britain and Ireland :

bonds, debentures and annuities charged by the Imperial Parliament on the revenues of India :

stock or debentures of or shares in railway or other companies, the interest whereon has been guaranteed by the Secretary of State for India in Council :

debentures or other securities for money paid by or on behalf of any municipal body under the authority of any Act of a legislature established in British India : or

such other securities, stocks or shares, guaranteed by the Government of India or the Government of Bengal, as to the Court shall seem fit : ⁵ [or,

mortgages on immovable property].

¹ The proviso ran thus :—

² Provided that the amount expended for such improvement and benefit in any one year shall not exceed ten per centum of the surplus which the accounts of the previous year may show to have been available after paying or making provision for the payment of all expenses incurred up to the end of such previous year, unless, in the opinion of the Court and of the Lieutenant-Governor, it is desirable for the protection or in the interests of the ward or his property to expend an amount exceeding such percentage."

³ As to the application of s. 50, see also s. 26, *ante*, p. 421.

⁴ The word "male", in s. 50, was substituted for the word "person" by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), s. 6, *post*, p. 628.

⁵ The words and figures "section 48", in s. 50, were substituted for the word and figures "section 49" by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 3 of 1881), s. 6, *post*, p. 628.

⁶ These words in square brackets were added, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1909 (Ben. Act 2 of 1909), s. 2, (in Vol. III of this Code), and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1911 (S. B. and A. Act 1 of 1911), s. 2. The former Act has been extended to Eastern Bengal by the Bengal Laws Act, 1924 (Ben. Act 1 of 1924), s. 3, Sch. I, and the latter Act has been repealed by the same Act, s. 6, Sch. IV.

of 1879.]

(Part VII.—Suits.—Secs. 51-56.)

PART VII.

SUITS.

51. In every suit brought by or against any ward he shall be therein described as a ward of Court; and the manager of such ward's property, or, if there is no manager, the Collector of the district in which the greater part of such property is situated, or any other Collector whom the Court of Wards may appoint in that behalf, shall be named as next friend or guardian for the suit, and shall in such suit represent such ward; and no other person shall be ordered to sue or be sued as next friend or be named as guardian for the suit by any Civil Court in which such suit may be pending.

Manager or Collector to be next friend or guardian in suits by or against ward.

52. The Court of Wards may, by an order, nominate or substitute any other person to be next friend or guardian for any such suit; and, upon receiving a copy of any such order of substitution, the Civil Court in which such suit is pending shall substitute the name of the next friend or guardian for the suit so appointed for the name of the manager or Collector.

Power of Court of Wards to nominate another person to be next friend or guardian for suit.

53. If in any such suit any Civil Court shall decree any costs against the next friend or guardian for the suit of the ward, the Court of Wards shall cause such costs to be paid out of any property of the ward which for the time being may be in its hands.

Payment of costs.

54. Every process which may be issued out of any Civil Court against any ward shall be served, through the Collector, upon the next friend or guardian for the suit as aforesaid of such ward.

Service of process against wards.

55. No suit shall be brought on behalf of any ward¹ [by a manager], unless the same be authorized by some order of the Court:

Suits not to be brought on behalf of wards unless authorized by the Court of Wards.

Provided that a manager may authorize a plaint to be filed in order to prevent a suit from being barred by the law of limitation; but such suit shall not be afterwards proceeded with except under the sanction of the Court:

Provided also that suits for arrears of rent may be brought on behalf of any ward if authorized by an order of the manager of the landed property on which such rents are due.

56. Nothing contained in this Part shall apply to any suit instituted or pending in the High Court * * *

Having of suits in High Court.

¹ The words "by a manager", in s. 55, were inserted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 7, *post*, p. 628.

² The words "or to a proprietor whose property is under the charge of the Court under clause (c) of section 6 or under the second clause of section 11," in s. 56, as amended by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 11, were repealed in Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 6, and, in Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 8 of 1907), s. 8, and are omitted. Sec. 11 of Act 4 of 1892 was, in turn, repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV.

(Part VIII.—Penalties.—Secs. 57-58A.)

PART VIII.

PENALTIES.

For disobey-
ing certain
orders of
Collector.

For disobey-
ing orders
under section
47.

Penalty on
farmer neg-
lecting to
furnish ac-
counts, etc.

57. Any person who refuses to comply with an order of a Collector under sections 29, 30, 36 or 37 shall be liable, by order¹ of the Collector, to a fine not exceeding five hundred rupees.

58. Any person who refuses to comply with an order made under section 47 may be punished, by order¹ of the Court, with simple imprisonment and attachment of his property until the order is complied with:

²[Provided that the Collector may release any person who has been so imprisoned, on his furnishing sufficient security for his attendance and for the delivery of the accounts or property required within such time as the Collector shall think fit. The Collector may, at any time, rescind such order of release, and direct that effect shall be given to the previous order of imprisonment.]

58A. Any farmer, holding or having held lands under the Court, who, upon notice served upon him to that effect at any time during the currency of the lease or within six months after the expiry of the lease under which such lands were held or after he has relinquished such lands, omits or refuses to furnish accounts or produce documents or papers required under such notice, and shall not show sufficient cause for such omission or refusal, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission; and the Collector may impose such further daily fine as he may think proper, not exceeding twenty rupees for each day during which such farmer shall omit to furnish the accounts, documents or papers required after a date to be fixed by the Collector in a notice warning the farmer that such further daily fine will be imposed.

Such notice shall be served by tendering to the person to whom it may be directed a copy thereof, attested by the Collector, or by delivering such copy at the usual place of abode of such person or to some adult male member of his family; or, in case it cannot be so served, by posting some copy upon such conspicuous part of the usual or last-known place of abode of such person; and, in case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such a way as the Collector issuing the notice may direct;

¹ A formal record must be made when an order is passed under s. 57 or s. 58—see s. 64, post, p. 452.

² This proviso was added to s. 58 by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 8, post, p. 628.

³ Section 58A was inserted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 9, post, p. 628.

of 1879.]

(Part VIII.—Penalties.—Part IX.—Miscellaneous.—Secs. 59-60B.)

and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section, notwithstanding that an appeal against the order imposing such fine may be pending :

Provided that, whenever the amount levied under such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by the authority of the said Commissioner.

59. Any person who disobeys any lawful order of the Court shall be liable, on conviction before a Magistrate, to a fine not exceeding five hundred rupees and, if he is a manager or guardian appointed by the Court, to a fine not exceeding one thousand rupees.

For disobey-
ing order of
Court.

15 of 1860.

59A. Every person employed by the Court under this Act shall, for the purposes of the Indian Penal Code,¹ be deemed to be a public servant.

Persons
employed by
Court to be
"public
servants."

PART IX.

MISCELLANEOUS.

60. No ward shall be competent to create, without the sanction of the Court, any charge upon, or interest in, his property or any part thereof, ²[or to assign over or charge any allowance to be received by him from the Court].

Disabilities
of wards.

60A. No property which is or has been under the charge of the Court shall be liable at any time, except with the leave of the Court, to be taken in execution of a decree made in respect of any contract entered into by the ward without the leave of the Court while his property was under such charge.

Exemption
of wards'
property from
execution
proceedings
in certain
cases.

60B. For the purposes of Part VII and sections 60 and 60A, a person whose property is under the charge of the Court of Wards by virtue of the second clause of section 11, or charge

Certain
persons to
be deemed
to be wards.

¹ Section 59A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 7, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 3 of 1907), s. 9, in Vol. III of this Code.

² Printed in the General Acts, 1884-67, Ed. 1909, p. 248.

³ These words in square brackets were added to section 60 by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 12, in Vol. I of this Code.

⁴ Section 60A was inserted by the Court of Wards Act (Bengal) Amendment Act, 1892 (4 of 1892), s. 13, in Vol. I of this Code.

⁵ Section 60B was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 8, and, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 3 of 1907), s. 10, in Vol. III of this Code.

(Part X.—Miscellaneous.—Secs. 61-64A.)

of whose property has been retained under section 13A, shall be deemed to be a "ward," but only so far as regards such property.

Adoption by
ward invalid
without
consent of
Lieutenant-
Governor.

61. No adoption by any ward, and no written or verbal permission to adopt given by any ward, shall be valid without the consent of the Lieutenant-Governor¹, obtained either previously or subsequently to such adoption, or to the giving of such permission, on application made to him through the Court.

62. (Sections 60 and 61 not to apply in certain cases). *Rep., in Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 9, and, in Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 3 of 1907), s. 11.*

63. (Arrears of rent how recoverable). *Rep. by the Public Demands Recovery Act, 1880 (Ben. Act 7 of 1880).*

Recovery of
interest on
arrears of
rent.

²**63.** Any amount of interest which has accrued due, on arrears of rent or other demand recoverable as rent payable to the manager of an estate which is in charge of the Court, may be recovered in any manner and by any process according to which such arrears may be recovered under any law for the time being in force; and any Court or officer who is competent to make an order or certificate in execution of which such arrears or other demand are recoverable may direct that any costs incurred by the manager in obtaining such order or certificate, and in executing the same, shall be recovered in the same manner and by the same process as if the amount thereof had been included in the said order or certificate.

Record of
reasons when
penalty im-
posed under
section 57 or
58.

64. When any penalty is imposed by any order under section 57 or section 58, the Collector or Court passing such order shall make a formal record of the same, with the reasons or grounds thereof.

Publication
of notices.

³**64A.** Any notice required to be published by the provisions of sub-section (I) of section 10A, or of sub-section (I) of section 10B, shall be published—

⁴**64A.** Any notice required to be published by the provisions of sub-section (I) of section 10A shall be published—

Publication
of notices.

⁵ [(a) in the Calcutta Gazette;]

⁶ [(a) in the Calcutta Gazette;]

¹ Now the Governor in Council for Fort William in Bengal—see the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² This section 63 was enacted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 10, and, p. 624.

³ This section 64A was inserted, for Western Bengal, by the Bengal Court of Wards (Amendment) Act, 1906 (Ben. Act 1 of 1906), s. 10, in Vol. III of this Code.

The differences in section 64A, as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁴ This clause (a) was substituted for the original clause (a), by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5, Sch. III, in Vol. III of this Code.

⁵ This section 64A was inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 3 of 1907), s. 12, in Vol. III of this Code.

of 1879.]

(Part IX.—Miscellaneous.—Secs. 65, 65A.)

- (b) in at least three issues each of one English and one Vernacular newspaper published in Calcutta ;
- (c) in two issues of a newspaper (if any) published in the district or Division in which the ward ordinarily resides, or has last resided ; and
- (d) by posting such notice on the notice-boards in the offices of the Collector and of the Judge of the district in which the place named in the notice is situate.
- (b) for such period as the Court shall think fit, in the following newspapers :—
- (i) a newspaper, if any, published in the district or Division in which the ward ordinarily resides, or has last resided,
- (ii) two newspapers published in Dacca,
- (iii) three daily newspapers ;
- (c) by posting such notice on the notice-boards in the offices of the Collector and of the Judge of the district in which the place named in the notice is situate ;
- (d) by beat of drum in village in which the ward ordinarily resides or has last resided ; and
- (e) in such other ways, if any, as the Court may, by rule, direct.

65. Whenever the Court has determined to release the property of a ward from its charge, it shall make an order that the jurisdiction of the Court over such property shall cease on a date not more than sixty and not less than fifteen days from the date of such order ; and copies of such order shall be published as the Court may direct.

Procedure when Court's jurisdiction ceases.

Recovery of expenses after release of property.

¹ **65A.** Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered

65A. Any expense incurred by the Court on account of any property under its charge may, after the release of such property, be recovered

Recovery of expenses after release of property.

¹ Section 65A was inserted by the Bengal Court of Wards (Amendment) Act, 1881 (Ben. Act 8 of 1881), s. 11, post, p. 624.

² Section 65A is in force in this form in Western Bengal.

The difference in section 65A as in force in Western Bengal and in Eastern Bengal respectively, lies in the words printed in *italics*.

(Part IX.—Miscellaneous.—Secs. 66-70.)

as a demand, under Bengal Act 7 of 1880¹ or any other Act² at the time being in force for the recovery of public demands, from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property :

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.

'(as if it were an arrear of land-revenue or) as a demand, under Bengal Act 7 of 1880¹ or any other Act² at the time being in force for the recovery of public demands, from any person into whose possession such property or any part thereof may have passed immediately after the release by the Court of such property :

Provided that the sum so recovered from any such person shall not be greater than the value of any such property which so passed into the possession of such person.

Judicial
powers of
Collector
in making
inquiries.
Appeals.

66. A Collector making any inquiry under this Act may exercise any power conferred by the Code of Civil Procedure³ on a Civil Court for the trial of suits.

10 of 1877.

67. An appeal shall lie from every order of a Collector under this Act to the Commissioner of the Division, and from every order of a Commissioner under this Act to the Court.

Control by
Court.

68. All orders or proceedings of the Commissioner and of the Collector under this Act shall be subject to the supervision and control of the Court; and the Court may, if it thinks fit, revise, modify or reverse any such order or proceeding, whether an appeal is presented against such order or proceeding or otherwise.

Control by
Lieutenant-
Governor.

69. In the exercise of the powers and in the discharge of the duties conferred and imposed respectively on the Court by this Act, the Court shall be guided by such orders and instructions as it may from time to time receive from the Lieutenant-Governor.⁴

Power to
Court to make
rules.

70. The Court may make rules,⁵ consistent with this Act,—

(a) defining the powers of Commissioners and Collectors respectively when the property of a ward is situated in two or more districts or in two or more Divisions;

¹ Ben. Act 7 of 1880 was repealed by the Public Demands Recovery Act, 1895 (Ben. Act 1 of 1895), which, again, has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), printed in Vol. III of this Code.

² See now the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), in Vol. III of this Code.

³ These words in italics in s. 66A were inserted, for Eastern Bengal, by the Eastern Bengal and Assam Court of Wards (Amendment) Act, 1907 (E. B. and A. Act 3 of 1907), s. 18, in Vol. III of this Code.

⁴ Act 10 of 1877 was repealed and re-enacted by Act 14 of 1882, which again has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to that Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁶ For rules made under section 70 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1879.]

(Part IX.—Miscellaneous.—Sec. 70.)

- (b) prescribing what reports shall be made from time to time by Collectors and Commissioners on the condition of the ward and his property ;
- (c) prescribing the periods at which and the mode in which accounts shall be submitted by managers and guardians respectively, and the mode in which such accounts shall be audited ;
- (d) regulating the custody of securities and title deeds belonging to the estate or property of a ward ;
- (e) regulating the procedure in appeals from orders of Collectors and Commissioners respectively under this Act ;
- (f) prescribing the procedure to be observed when a property ceases to be under the charge of the Court ; and
- (g) generally for the better fulfilment of the purposes of this Act.

The Court may from time to time alter, add to or repeal such rules.

BENGAL ACT 1 OF 1880

(THE CALCUTTA TRAMWAYS ACT, 1880).

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SCHEDULE.

BENGAL ACT 1 OF 1880

(THE CALCUTTA TRAMWAYS ACT, 1880).¹

(3rd March, 1880.)

**An Act to authorize the making and to regulate the working-
of Street Tramways in Calcutta.**

Whereas the Corporation of the town of Calcutta, herein- Preamble.
after called the Corporaton, by an agreement dated the 2nd
day of October, 1879, for the considerations therein expressed,
granted to Dillwyn Parrish, Alfred Parrish and Robinson
Souttar and their assigns, hereinafter called the grantees, the
right to construct, maintain and use a tramway or tramways in
Calcutta upon the terms and in the manner mentioned in the
said agreement, a copy whereof is set forth in the Schedule to
this Act, which said agreement had, on the twenty-fifth day of
August, 1879, received the sanction of the Lieutenant-Governor
of Bengal;

and whereas the grantees are desirous of being empowered
to construct the several street tramways in the said agreement
and in this Act particularly described, and also such other
tramways between such other places in Calcutta and the
Suburbs of Calcutta, and by such other routes as may hereafter
be approved;

and whereas the objects of this Act cannot be attained with-
out the authority of the Legislature;

It is hereby enacted as follows:—

1. This Act may be called the Calcutta Tramways Act, Short title.
1880;

(Commencement). *Rep. by the Repealing and Amending
Act, 1903 (1 of 1903), now known as the Amending Act, 1903—
vide Act 10 of 1914, Sch. II.*

2. In this Act, unless there be something repugnant in the Meaning of
"tramway."
subject or context, "tramway" means a tramway constructed
under this Act.

3. Subject to the provisions of this Act, and of the said Tramways
may be made
in accordance
with the
agreement
between the
Corporation
and the
grantees.
agreement, the grantees may make and maintain in Calcutta a
tramway or tramways, with single or double lines, and with all
necessary sidings, turnouts, connections and lines (but in the

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879, Pt. IV, p. 105; for Report of Select Committee, see *ibid.* 1880, Pt. IV, p. 1; and for Proceedings in Council, see *ibid.* 1879, Supplement, p. 1446; *ibid.* 1880, Supplement, p. 55.

LOCAL EXTENT.—This Act extends only to Calcutta and its Suburbs—see ss. 3, 4, on this page and the next page.

CONTROL BY LOCAL GOVERNMENT.—As to the control of the Local Government over tramways constructed in those portions of Calcutta which are not subject to the authority of the Corporation of Calcutta, see the Calcutta Tramways (Amendment) Act, 1884 (Ben. Act 2 of 1884) *post*, p. 691. That Act is to be read with and taken as part of the present Act—see s. 1 thereof, *post*, p. 691.

(Sec. 4.)

case of sidings and turnouts only in such places as the Corporation may sanction) on the following routes and between such other places and by such other routes as may be hereafter approved by the Corporation and sanctioned¹ by the Lieutenant-Governor² :—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghât Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road, and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bazar Street, Lall Bazar Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

5th.—Tramway No. 4, commencing near Sobha Bazar Street and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurumtollah Street, and passing along Dhurumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the Circular tramway at Koila Ghât Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road, and passing along Elliott's Road and Wellesley Street, and joining tramway No. 5 in Dhurumtollah and tramway No. 1 in College Street.

8th.—Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2:

Provided that, without the special sanction of the Corporation to be obtained in special general meeting of the Commissioners, there shall not be a double line in the following places :—

In tramway No. 1, Colootollah Street.

Ditto .. 2. the whole.

Ditto .. 6. Elliott's Road.

Ditto .. 7. the connecting line.

4. In the event of any other tramway or tramways on other routes in Calcutta or in the suburbs of Calcutta³ being

Application
of Act to
Suburban
tramways.

¹ For a list of orders made under section 3, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

³ Many of the suburbs are now amalgamated with Calcutta for municipal purposes—see the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), s. 3 (7), in Vol. III of this Code.

of 1880.]

(Secs. 5-8.)

from time to time approved by the Corporation or the Municipal Commissioners for the said Suburbs as the case may be, and sanctioned by Government and undertaken by the grantees, notice¹ thereof specifying the routes so approved of, and, in the case of suburban tramways, a copy of the agreement entered into between the said Municipal Commissioners and the grantees in respect thereof, shall thereupon be published² in Calcutta Gazette :

and, upon such publication, all the provisions of this Act, so far as the same may be applicable, shall apply to the tramway or tramways in such publication specified, and all works and things connected with the same or incidental thereto, as if the said routes had been particularly specified in this Act and as if the agreement, if any, in reference thereto had been included in the Schedule to this Act.

5. Every tramway shall be constructed on the metre-gauge of 3 feet 3½ inches, or on such other gauge not exceeding 4 feet 8½ inches as may be agreed upon between the Corporation and the grantees, and shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the immediately adjacent surface of the road; and before the work of construction is begun, the drawings and specification showing the proposed construction of each tramway shall be submitted to the Corporation and be approved by them, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by the Corporation.

Form in which tramways are to be constructed and maintained.

6. No tramway shall be opened for public traffic until the same has been inspected and certified by the Engineer to the Corporation to be fit for such traffic.

No tramway to be opened without certificate from Engineer. Carriages how to be worked.

7. The cars and carriages of the grantees on the lines of the tramways shall be worked with such power, animal or mechanical, as the grantees may think suitable :

Provided that no steam-carriages shall be used without the special consent of the Corporation, to be obtained in special general meeting of the Commissioners, and without the sanction of the Lieutenant-Governor³.

8. The grantees may use on their tramways carriages with flange wheels or wheels suitable only to run on a grooved rail, and subject to the provisions of this Act, and of the hereinbefore recited agreement, they shall have the exclusive use of their tramways for carriages with flange wheels or other wheels suitable only to run on a grooved rail.

Grantees may use tramway carriages with flange wheels.

¹ As to the validation of defects in publication of notices under this section, see the Calcutta Tramways (Amendment) Act, 1884 (Ben. Act 2 of 1884), s. 5, *post*, p. 692.

² For notifications issued under section 4, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 9-12.)

grantees may
fix and de-
mand fares.

9. The grantees shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways:

Provided that the rate of fare for each person or parcel shall, for any distance not exceeding three miles, not exceed three annas, and for any greater distance shall not exceed the same proportion.

Printed list
of fares, etc.,
to be placed
in carriages.

10. A printed list, in English, Bengali and Urdu, of all the fares and charges authorized by this Act to be taken, and a printed copy in the same languages of all by-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the grantees upon any of their tramways.

Such list and printed copy as aforesaid shall be published in the Calcutta Gazette at the expense of the grantees.

Fares how to
be paid.

11. The fares and charges by this Act authorized shall be paid to such persons, at such places, upon or near to the tramways, and in such manner and under such regulations as the grantees may, by notice to be annexed to the list of fares, from time to time appoint.

Power to
break up
streets.

12. The grantees may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the streets, as defined by Bengal Act 4 of 1876 (*the Calcutta Municipal Consolidation Act*)¹, and bridges in the town of Calcutta, and therein lay sleepers and rails and repair, alter or remove the same; and may, for the purposes aforesaid, do in and on such streets and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining their tramways subject to the following regulations:—

1st.—They shall give to the Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be open or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge, except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees shall pay all reasonable expenses, unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

¹ Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which, again, has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), printed in Vol. III of this Code. The reference in the text should now be construed as a reference to the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

of 1880.]

(Secs. 13-16.)

3rd.—They shall not, without the consent of the Corporation, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks at the most, unless the Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up, and fill in the ground, and make good the surface, and, to the satisfaction of the Corporation, restore the street or bridge to as good a condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes and sewers, whether belonging to the Corporation or to private individuals by the disturbance thereof.

7th.—If by any such operations as aforesaid the grantees interrupt the supply of water or gas in or through any main or main pipe, they shall be liable to a penalty not exceeding two hundred rupees for every day upon which such supply shall be so interrupted.

13. The grantees shall, at their own expense, at all times maintain and keep in good condition and repair, in such manner as the Corporation shall direct, the rails of which any of their tramways shall for the time being consist, and so much of any street or bridge as lies between the rails of any tramway; and, in the case of double lines or turnouts or sidings the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway; and in the course of carrying out such repairs, it shall not be necessary to give notice thereof to the Corporation.

Grantees to keep the tramway roads in proper repair.

14. In exercising the powers given to them by the last two preceding sections, the grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the Corporation.

Grantees not to obstruct ordinary traffic.

15. Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheels or wheels suitable to run on a grooved rail.

Reservation of right of public to use roads.

16. Nothing in this Act, or in any by-law made under this Act, shall interfere with the right of the Port Commissioners,

Saving of Port Commissioners' tramways

(Secs. 17-21.)

or of any other body or person entitled at the time of the commencement of this Act to work and maintain a tramway, to pass across any tramway constructed under this Act with carriages having flange wheels or wheels suitable to run on a grooved rail.

Right of user only.

17. Notwithstanding anything in this Act contained the grantees shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

Penalty for failure of grantees to comply with provisions of this Act.

18. If the grantees fail in any respect to comply with the provisions of sections 5, 6, 7, 12 (except the last two clauses), 13 and 14 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of the Corporation or of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for obstructing grantees in the exercise of their power.

19. If any person wilfully obstructs any person acting under the authority of the grantees in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall for every offence be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for interfering with tramway.

20. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things namely:—

interferes with, removes or alters any part of a tramway of the grantees, or of the works connected therewith;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways;

or knowingly aids or assists in the doing of such thing, he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

Penalty for avoiding payment of proper fare.

21. If any person travelling or having travelled in any carriage of the grantees avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall for every such offence be liable to a penalty not exceeding ten rupees.

of 1880.]

(Secs. 22-25.)

22. It shall be lawful for any servant of the grantees, and all persons called in by him for his assistance, to arrest and take to the nearest police-station any person who shall be discovered either in or after committing or attempting to commit any such offence as in the last preceding section mentioned, and whose name and residence is refused by him and is unknown to such servant or person, and the police-officer, in charge of the said police-station, on receiving a complaint that an offence under this Act has been committed, shall adopt such legal measures as may be necessary to cause the said person to be taken before a Magistrate with the least possible delay.

Servant of grantees may arrest persons avoiding payment of fare.

23. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and, if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the grantees with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the grantees to refuse to take any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Carriage of dangerous or offensive goods.

24. The Corporation in special general meeting may, subject to confirmation thereof by the Lieutenant-Governor¹, from time to time make such regulation² as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act.

By-laws by Corporation.

The grantees may, subject to confirmation as aforesaid, from time to time make such regulations³—

The grantees may make certain regulations.

for preventing the commission of any nuisance in or upon any carriage, or in or against any premises belonging to them, and

for regulating the travelling in or upon any carriage belonging to them,

as are not inconsistent with this Act.

Notice of the making of any such by-laws⁴ shall be published by the Corporation in the Calcutta Gazette.

25. Any person offending against any by-law⁴ made under the provisions of the last preceding section shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such by-laws⁴ as a penalty for such offence.

Penalty for breach of by-laws.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

² For regulations under s. 24, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ *Sic.* Road regulations.

⁴ *Sic.* Road regulation.

(Secs. 26-29.)

Power to
Corporation
to license
drivers,
conductors,
etc.

26. The Corporation shall have the like power of making and enforcing rules and regulations¹ and of granting licenses with respect to all drivers, conductors and other persons having charge of the carriages using the tramways as they are for the time being entitled to make, enforce and grant with respect to the drivers of hackney-carriages and other persons having charge thereof.²

Grantees to be
responsible for
all damages.

27. The grantees shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and shall save harmless the Corporation and their officers and servants from all damages and costs in respect of such accidents, damages and injuries.

Power for the
Corporation
and police to
regulate
traffic on
roads.

28. Nothing in this act shall limit the powers of the Corporation or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and the Corporation or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the grantees as to the traffic of other persons.

The Corporation shall not be liable to pay to the grantees any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

Reservation
of power
over roads.

29. Nothing in this Act shall be construed to prevent the Corporation, or the Oriental Gas Company, Limited, in the exercise of the powers conferred upon them under Act 5 of 1857³ from opening, breaking up, widening, altering, diverting or improving any of the roads traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same:

Provided—

- (1) that they shall cause as little detriment or inconvenience to the grantees as circumstances admit;
- (2) that they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the grantees;
- (3) that before they commence any work, whereby the traffic on the tramways will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such

¹ For rules made under section 26, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² For the law as to hackney-carriages, see the Calcutta Hackney-carriage Act, 1891 (Ben. Act 3 of 1891), in Vol. III of this Code.

³ Act 5 of 1857 is an Act of a private character, and is therefore not printed in this Code.

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(Sec. 30, Schedule.)

notice to be given eighteen hours at least before the commencement of the work ;

- (4) that, in the event of their so interfering with, or stopping the running of, any tramway under this section, an abatement proportioned to the length of road over which and time during which running is stopped shall be made from the rent hereinbefore reserved and payable by the grantees ;
- (5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

30. The Corporation shall have the right of purchasing the tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this Act, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years, after the expiration of the said twenty-one years upon similar notice being given ;

Corporation
to have right
of purchasing
tramways
after twenty-
one years.

and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the grantees, or securities of the Government of India, or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council, or debentures of the Corporation of such amount as to produce, at the rate of interest current on such securities, seven *per cent. per annum* on the amount of the said invested capital ;

and, if the consideration for such purchase shall be given in such securities as aforesaid, the grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways, which shall have been purchased from them.

SCHEDULE.

Articles of Agreement¹ made this second day of October, 1879, between the Corporation of the Town of Calcutta incorporated under Act 4 of 1876² of the Lieutenant-Governor of Bengal in Council hereinafter called the said Corporation on

¹ Further agreements are appended to the Calcutta Tramways Act, 1884 (Ben. Act 8 of 1884) and the Calcutta Tramways (Electric Traction) Act, 1900 (Ben. Act 4 of 1900), printed in Vol. III of this Code.

² Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which again has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), printed in Vol. III of this Code.

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the one part, and Dillwyn Parrish and Alfred Parrish, both of London, and Robinson Souttar, of Liverpool, hereinafter called the said grantees of the other part. Whereas the said Corporation have, subject to confirmation thereof by the Government of Bengal, and to the recognition of this agreement by an Act of the Bengal Legislature, agreed to grant to the said grantees the right to construct, maintain and use a tramway or tramways in Calcutta, upon the terms and conditions hereinafter contained, now these presents witness that, in consideration of the covenants and agreements hereinafter contained and on the part of the said Corporation to be performed, the said grantees for themselves, their heirs, executors, administrators and assigns do, and each of them for himself, his heirs, executors, administrators and assigns doth, covenant with the said Corporation, so far as the covenants and agreements hereinafter contained are to be performed by the said grantees and their heirs, executors, administrators and assigns, and the said Corporation, for and in consideration of the covenants and agreements hereinafter contained and on the part of the said grantees and their heirs, executors, administrators and assigns to be performed, do hereby covenant with the said grantees and their heirs, executors, administrators and assigns so far as the covenants and agreements hereinafter contained are to be performed by the said Corporation in manner following, that is to say:—

1. The said Corporation grant to the said grantees and their heirs, executors, administrators and assigns, all which persons are hereinafter included in the words "the said grantees," the right to construct, maintain and use a tramway or tramways, with single or double lines, and with all necessary sidings, turnouts, connections and lines of whatever nature which may be required to connect the said tramway or tramways with the depôts of the said grantees (but in the case of sidings and turnouts only in such places as the said Corporation may sanction), on the following routes and between such other places and by such other routes as may be hereafter approved of by the said Corporation:—

1st.—A circular tramway passing round Fairlie Place, Strand Road, Koila Ghât Street and Clive Street.

2nd.—Tramway No. 1, commencing at the junction of Cornwallis Street and Circular Road and passing along Cornwallis Street, College Street, Colootollah Street, Canning Street, Clive Row and Clive Street, effecting a double junction with the circular tramway at Fairlie Place.

3rd.—Tramway No. 2, passing along Upper Chitpore Road to its junction with Canning Street, where it joins tramway No. 1.

4th.—Tramway No. 3, passing along Bow Bazar Street, Lall Bazar Street and Dalhousie Square, effecting a double junction with the circular tramway in Clive Street.

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5th.—Tramway No. 4, commencing near Sobha Bazar Street, and passing along Strand Road to Somerset Buildings, where it terminates.

6th.—Tramway No. 5, commencing in the Circular Road at the end of Dhurumtollah Street and passing along Dhurumtollah Street, Esplanade Row, Old Court House Street and Dalhousie Square, effecting a double junction with the circular tramway at Koila Ghât Street.

7th.—Tramway No. 6, commencing in the Circular Road at the end of Elliott's Road and along Elliott's Road and Wellesley Street and joining tramway No. 5 in Dhurumtollah and tramway No. 1 in College Street.

8th.—Tramway No. 7, passing along Chowringhee and joining tramway No. 5 at Dhurumtollah Road, with a connecting line along Bentinck Street and Chitpore Road to tramway No. 2:

Provided that without the special sanction of the Corporation (Commissioners in special general meeting) there shall not be a double line in the following places:—

In tramway No. 1, Colootollah Street.	
Ditto ..	2, the whole.
Ditto ..	6, Elliott's Road.
Ditto ..	7, the connecting line.

These lines are particularly delineated on a plan accompanying this agreement, and signed by the Engineer to the Corporation and one of the said grantees.

2. The said grantees shall, moreover (subject to clauses 3 and 4), have the exclusive right of laying, constructing, maintaining and using a tramway or tramways within the limits of the Calcutta Municipality on the terms contained in these presents:

Provided always that if the said grantees shall at any time or times refuse or neglect for three months to accept any proposal by the said Corporation for the construction, maintenance and use of any tramway or tramways other than those mentioned in clause 1 which the said Corporation may consider necessary or desirable, it shall be lawful for the said Corporation to employ any other person or company for the purposes aforesaid or any of them, and to make such arrangements as they may think proper independently of the said grantees.

3. The said grantees shall construct in such a manner as to be available for use at least six miles of the tramways mentioned in clause 1 within three years from the passing of the necessary Act by the Legislature, and they shall, before the expiration of the fourth year, give notice in writing to the said Corporation of the lines they intend to construct during the fifth year, and, failing the observance by the said grantees of the terms of this clause, it shall be lawful for the said

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Corporation to withdraw and cancel the concessions and rights granted by these presents to the said grantees as regards the lines remaining unconstructed.

4. If the grantees shall, at the expiration of five years from the date of commencement of this contract, have left any one or more of the lines hereinbefore in clause 1 specified unconstructed, and if the said Corporation shall not have exercised the rights conferred on them by clause 3, the said Corporation may call upon the said grantees to construct the line or lines; and if the said grantees do not construct the line or lines within twelve calendar months after receiving such formal notice, then their powers granted in this concession shall, so far as relates to that line, cease, and the said Corporation may make arrangements with other persons for the construction of the same, and in such last-mentioned case the other parties, to whom the said concession or any contract shall be granted, shall have the privilege of running round the circle to be constructed by the said grantees, namely, by way of Koila Ghat Street, Strand Road, Fairlie Place and Olive Street, free of toll, and, in the event of the said grantees having failed to construct the six miles of tramway provided for in the preceding clause, such other parties as last aforesaid shall have a like privilege of running over any part of any of the tramways No. 1 to No. 7 above-mentioned in part constructed by the grantees to any other part of the same tramway which may have been constructed by the said other parties:

Provided always that in the exercise of these privileges they shall not interfere with or obstruct the traffic of the said grantees, and shall conform to such rules for the regulation of that traffic as may be drawn out by the said grantees and approved of by the said Corporation:

Provided also that it shall not be lawful for the said other parties to both take up and set down the same passenger on the said grantees' lines:

Provided also that, if the said grantees shall offer any obstruction or fail to afford reasonable facilities, to enable the said parties to whom any concession or contract shall be made or given as aforesaid to exercise the privilege of using the lines of the said grantees as aforesaid, it shall be lawful for the said Corporation forthwith to make such rules with reasonable penalties for the breach thereof as they may think advisable for the purpose of regulating the use of the said lines and the traffic thereon.

5. Any tramway or tramways to be constructed under this agreement shall be constructed on the metre-gauge of 3 feet 3½ inches, or on such other gauge not exceeding 4 feet 8½ inches as may be mutually agreed upon, and especially the rails shall be laid and maintained in such manner that the uppermost surface of the rails shall be on a level with the surface of the

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road, and before the work of construction is begun the drawings and specification showing the proposed construction of each tramway shall be submitted to the said Corporation and be approved by them, and the cars and carriages intended to run on the said tramways shall also be such as shall have been approved of by the Corporation.

6. If the said Corporation shall hereafter alter the level of any street or road along or across which any tramway by this agreement authorized is laid or authorized to be laid, the grantees shall alter or (as the case may be) lay their rails, so that the uppermost surface thereof shall be on a level with the surface of the road so altered :

Provided always that any such alteration as aforesaid shall be so made as to interfere as little as possible with the safe and convenient working of the said tramways, and in any case so as not to stop or prevent the free use and working thereof.

7. The cars and carriages of the said grantees on the tracks of the said tramways shall be worked with such power, animal or mechanical, as the said grantees may think suitable : provided that no steam-carriages may be used without the special consent of the Corporation (Commissioners in special general meeting) ; and provided also that the said Corporation (Commissioners in special general meeting) shall have power at all times to make such regulations as to the rate of speed, number of passengers and mode of use of the said tracks as the convenience and safety of the public using the streets may require.

8. The sleepers, rails, materials, implements and erections placed and erected by the said grantees or their assigns on the streets or roads under the powers hereby granted shall be and remain the property of the said grantees, but they shall not remove or displace the same or any of them or any part or parts thereof without the consent in writing of the said Corporation. No person other than the grantees, or persons authorized so to do under clause 4 thereof, may use upon any tramway or tramways made under this agreement, or under any agreement entered into under clause 4 hereof, carriages with flanged wheels or other wheels suitable only to run on the prescribed rail.

9. The said grantees or their assigns shall have power from time to time to fix the rates of fares for carrying persons and goods in the said cars or carriages :

Provided that the rate of fare for each person or parcel shall for any distance not over three miles not exceed three annas and shall not for any greater distance exceed the same proportion.

10. The said grantees may (for the purpose of constructing and maintaining any tramways under this agreement), under such superintendence as is hereinafter specified, open and break

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Ben. Act 4 of
1876.

up the soil and pavement of the several public or other streets (as defined in the Calcutta Municipal Consolidation Act, 1876)¹ and bridges in the City of Calcutta, and therein lay sleepers and rails, and from time to time repair, alter or remove the same, and may, for the purposes aforesaid, remove and use all earth and materials in such streets and bridges, and do in and on such street and bridges all other acts which they shall from time to time deem necessary for constructing and maintaining such tramways subject to the following conditions:—

1st.—They shall give to the said Corporation notice in writing of their intention to open or break up any such street or bridge, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least three days before the commencement of the work.

2nd.—They shall not open or break up or alter the level of any such street or bridge except under the superintendence and to the reasonable satisfaction of the Corporation, for which superintendence the grantees or their assigns shall pay all reasonable expenses unless the Corporation neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the said Corporation, open or break up at any one time a greater length than a quarter of a mile on any one line of tramway.

4th.—They shall, with all convenient speed, and in all cases within six weeks, at the most, unless the said Corporation otherwise consent in writing, complete the work for which the said street or bridge shall be broken up and fill in the ground, and make good the surface, and to the satisfaction of the said Corporation restore the street or bridge to as good condition as that in which it was before it was opened or broken up, and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall make good all damage done to the gas and water-pipes and sewers whether belonging to the Corporation or to private individuals by the disturbance thereof.

6th.—They shall in the meantime, when such street or bridge is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

11. The said grantees shall, at their own expense, at all times maintain and keep in good condition and repair to the reasonable satisfaction of the said Corporation, the rails of which any of the tramways shall for the time being consist, and also so much of any such street or bridge whereon any tramway belonging to them is laid as lies between the rails of

¹ Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which again has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), printed in Vol. III of this Code. The reference in the text should now be construed as a reference to the Act of 1899—see the Bengal General Clauses Act, 1889 (Ben. Act 1 of 1889), s. 10, in Vol. III of this Code.

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the tramway, and, in the case of double lines or turnouts or sidings, the portion of the road between the tramways, and in every case so much of the road as extends eighteen inches beyond the rails of and on each side of any such tramway, and in the course of carrying out these repairs it shall not be necessary to give notice thereof to the said Corporation.

12. In exercising the powers given to them by clauses 10 or 11 the said grantees shall arrange their work so as to afford the least possible obstruction to the ordinary traffic of the streets, and so as also to admit of as free and unrestricted entry at all times into the sewers through the man-holes and lamp-holes for the time being in use, as is possible under the circumstances, and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the Corporation.

13. If the said grantees shall commit any breach of clauses 10 or 11 or 12, it shall be lawful for the said Corporation in their discretion, where such breach shall be in the execution of any work or repairs, at any time after seven days' notice to the said grantees, themselves to do and execute such work or repairs, and the expense incurred by the said Corporation in so doing, including the cost of superintendence, shall be repaid to them by the said grantees, together with interest at the rate of eight *per cent. per annum* and the certificate of the Engineer of the said Corporation as to such cost shall be conclusive.

14. If any person or persons sustain any loss or damage by reason of any defect or want of repairs in any of the plant, rolling-stock or other properties of the said grantees or by reason of any carelessness, neglect or misconduct of their agents or servants in the management, construction or use of the said tramways or any portion thereof, or in the exercise of the powers given by clauses 10 or 11, the same shall be made good by the said grantees, and in the event of any suit being instituted against the said Corporation in respect of any of the matters hereinbefore mentioned the said grantees shall, within fourteen days from receipt of a notice thereof from the said Corporation, settle the same; but if the said grantees choose to defend such suit, they shall be at liberty to do so upon their undertaking to indemnify the said Corporation against all losses, damages and expenses in respect thereof:

Provided always that, if the said grantees fail to settle such suit or to indemnify the said Corporation as is hereinbefore provided, it shall be lawful for the said Corporation to settle the same without any consent or concurrence on the part of the said grantees, and the sum which they shall have to pay in making such settlement, together with interest thereon at the rate of 8 *per cent. per annum* from the date of payment, and with all expenses which they may be put to, shall be recoverable as a debt from the said grantees.

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15. If at any time after the opening of any tramway for traffic the said grantees shall discontinue the working of such tramway or any part thereof for the space of six calendar months (such discontinuance not being occasioned by circumstances beyond the control of the grantees), it shall be lawful for the Corporation, without any previous notice to the said grantees, to remove the tramway or part thereof so discontinued, and the said grantees shall pay to the Corporation the cost of such removal and of the making good of such street or bridge through which the said tramway shall have been made, and the certificate of the Engineer of the said Corporation as to such cost shall be conclusive.

16. The said grantees will, if required by the said Corporation, before opening and breaking up the soil and pavement of any street or bridge under clause 10 of these presents, deposit in an approved bank in Calcutta in the name of the said Corporation the sum of Rs. 5,000, or, in their option, promissory notes of the Government of India or municipal bonds of the nominal value of Rs. 5,000, and the same will remain so deposited until the completion by the said grantees of the lines of tramway herein sanctioned for immediate construction. But all interest accruing on the said sum or the said notes shall be credited to the said grantees, and, subject as next hereinafter mentioned, be paid to them as the same shall accrue due :

Provided nevertheless that the said Corporation shall be entitled to deduct out of the sum so deposited or the interest accruing on the said sum or notes or out of the proceeds of sale of the said notes all moneys to which they may be entitled under any clause or clauses of these presents.

17. In consideration of the concession hereby granted the said grantees will pay to the said Corporation rent at the several rates hereinafter specified, namely, from the beginning of the first to the end of the ninth year, at the rate of Rs. 3,000 *per annum* per mile of double line and Rs. 2,000 *per annum* per mile of single line; from the beginning of the tenth to the end of the thirteenth year, a rent at the rate of Rs. 3,250 *per annum* per mile of double line and Rs. 2,250 *per annum* per mile of single line; from the beginning of the fourteenth year to the end of the seventeenth year, a rent at the rate of Rs. 3,500 *per annum* per mile of double line and Rs. 2,500 *per annum* per mile of single line; from the beginning of the eighteenth to the end of the twenty-first year, a rent at the rate of Rs. 3,750 *per annum* per mile of double line and Rs. 2,750 *per annum* per mile of single line; and from the beginning of the twenty-second year, a rent at the rate of Rs. 4,000 *per annum* per mile of double line and Rs. 3,000 *per annum* per mile of single line. And the rents aforesaid shall be payable half-yearly and shall form a first charge on the undertaking, and the date on which such rent on each line of

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tramways or part of a line shall begin to accrue shall be the date on which such line or part of a line of tramway shall be opened for public traffic:

Provided always that no lines or sidings over which passengers or goods are not carried for hire, connecting the traffic lines with the stables, carriage-sheds or depôts or other property of the grantees shall be included in mileage for which rent shall be payable.

18. If the said rent or any part thereof shall not be paid on due date, the said grantees shall be liable to pay interest thereon at the rate of eight *per cent. per annum* from the due date until payment.

19. In consideration of the premises the Corporation shall allow to be deducted from the rent payable under this agreement a sum equal to the amount levied upon the grantees, as the municipal taxes upon their horses, carriages and tramway lines (but not on their depôts and buildings or any other property or effects).

20. From and after the commencement of the fifteenth year of this contract to the end of the twenty-first, the said grantees shall not be at liberty to enter upon any fresh engagements or expenditure which would increase their capital account in connection with this contract, without first notifying their intention to the said Corporation and obtaining their approval thereof and sanction thereto in writing.

21. The Corporation shall have the right of purchasing the said tramways with the plant, buildings, stores, rolling-stock and everything connected therewith upon the expiration of twenty-one years from the commencement of this contract upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years, upon similar notice being given, and the consideration for such purchase shall be a cash payment of one and two-fifths of the amount of the invested capital of the said grantees or securities of the Government of India or securities the interest whereon shall have been guaranteed by the Secretary of State for India in Council or debentures of the said Corporation of such amount as to produce at the rate of interest current on such securities seven *per cent. per annum* on the amount of the said invested capital, and, if the consideration for such purchase shall be given in such securities as aforesaid, the said grantees shall be entitled to have in addition a first mortgage of all the property, assets and profits of the tramway or tramways which shall have been purchased from them.

22. In the event of the said Corporation failing to declare its intention, as above provided, to purchase the property of the said grantees, the terms of this contract shall continue in force.

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23. The provisions hereinbefore contained shall, so far as applicable, apply to all tramways to be constructed by the said grantees by any route or routes to be hereafter fixed by the said Corporation or under clauses 1, 3 and 4 of these presents, and to the works connected with or incidental to such tramways.

24. The date of the commencement of this concession shall be the date on which notice of the sanction of the Government of Bengal to the same shall be given to the said grantees.

25. Unless the said grantees shall have commenced the work of laying down the said tramway within twelve months from the date of the recognition of this agreement by an Act of the Bengal Legislature, the said Corporation shall be at liberty to cease and determine this contract, and to enter into arrangements with any other person or persons for the construction of tramways.

26. Nothing in this agreement shall take away or affect any power which the Corporation may have by law to open, or break up, or to widen, alter, divert or improve any street or road :

Provided always—

1st.—That they shall cause as little detriment or inconvenience to the grantees as circumstances will admit.

2nd.—That they may (if absolutely necessary, but not otherwise) order the temporary stoppage of traffic on the said tramways or any of them on giving twenty-four hours' previous notice in writing to the said grantees.

3rd.—That before they commence any work, whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency in which cases no notice shall be necessary) give to the grantees notice of their intention to commence such work, specifying the time at which they will begin to do so; such notice to be given eighteen hours at least before the commencement of the work.

4th.—That, in the event of their so interfering with the stopping the running of any tramway under this clause, an abatement proportioned to the length of road over which, and time during which, running is stopped shall be made from the rent hereinbefore reserved and payable by the said grantees.

5th.—That any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement, shall be executed by the grantees at the expense of the Corporation.

27. If any doubt, difference or dispute shall arise between the said grantees and the said Corporation touching the construction of these presents or anything herein contained, or touching or concerning any other matter or thing relating to these presents, then and in every such case such doubt, difference or dispute shall be referred to the arbitration of two

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persons, one to be chosen by the said grantees and the other by the said Corporation within one calendar month after either of them shall have made to the other a requisition to that effect, and should the arbitrators fail to agree they shall refer the question or questions at issue to the decision of an umpire to be chosen by the said arbitrators, and the decision of such arbitrators, if they agree, or of such umpire if they disagree shall be final, and, in case either party shall neglect or refuse to appoint an arbitrator within the specified time, the arbitrator appointed by the other party shall make a decision alone and the decision of such arbitrators, umpire or arbitrator, as the case may be, shall be effectual and binding upon both parties.

28. The words "the said Corporation" used in this agreement shall include the present Corporation and their successors, and also all persons empowered by the said Corporation or their successors or by other duly constituted authority to do any act or thing or exercise any powers or authorities which the said Corporation are hereinbefore authorized or empowered to do or exercise.

BENGAL ACT 3 OF 1880

(THE HOWRAH BRIDGE ACT, 1880)¹.

(19th May, 1880.)

An Act to amend the Howrah Bridge Act 1, 1871.²

Whereas under the sanction of the Lieutenant-Governor of Bengal the Commissioners for making Improvements in the Port of Calcutta, being the Commissioners appointed under Bengal Act 9 of 1871,³ have for some time past been running steamers from Calcutta to Howrah and back, and carrying passengers and goods therein, and employing tugs and other boats in towing vessels through the Howrah bridge and generally in the service of the said bridge, and it is expedient that they should continue to own and work such steamers, tugs and boats for the purposes aforesaid, and also that the said Commissioners should have power to build, purchase, provide or procure steam-vessels and tugs and other craft and employ the same for any of the purposes aforesaid; It is hereby enacted as follows:—

Preamble.

1. This Act shall be, and shall be deemed to have always been, a part of Bengal Act 9 of 1871.⁴

2. It shall be lawful for the Commissioners, with the sanction of the Lieutenant-Governor of Bengal,⁵ to build or acquire in any manner whatsoever such steam or other vessels as they may think fit,

To be part of Ben. Act 9, 1871. Commissioners may build or acquire and run steam-vessels, etc., in the service of the bridge and may book goods and passengers.

and to employ the same or any of them in towing vessels through the bridge and generally in the service of the bridge, and also in carrying goods, merchandize and passengers to and from such places in Calcutta and Howrah, as may from time to time be fixed by the Lieutenant-Governor,⁶

and to book and receive goods, merchandize and passengers at any such places.

and to make and levy such fees and charges as may from time to time be prescribed by the Lieutenant-Governor⁷ for the aforesaid duties and services.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1880, Pt. IV, p. 99; and for Proceedings in Council, see *ibid.*, 1880, Supplement, pp. 322, 406.

LOCAL EXTENT.—This Act applies only to the Howrah Bridge and the river between Calcutta and Howrah—see s. 2.

² The Howrah Bridge Act, 1871. It is printed *ante*, p. 217.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

BENGAL ACT 5 OF 1880

(THE BENGAL VACCINATION ACT, 1880).

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3. Parent or guardian of children born in compulsory limits, and of unprotected children brought to reside in such limits, *or living in such limits at the date of this Act coming into force*, must procure their vaccination.
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11. Unprotected persons to be vaccinated.
12. Former sections applicable.
13. Health Officer of Port may cause vaccination of unprotected persons on their arrival.
Health Officer may, in certain cases, require immediate vaccination of unprotected person on board.
Proviso.

MISCELLANEOUS.

- 13 A. Occupier of house, etc., to allow access.

PROCEDURE APPLICABLE TO THE TOWN OF CALCUTTA ONLY.

SECTION.

14. Public vaccine-stations.
Appointment of public vaccinators, etc.
Notification of stations and hours of attendance.
15. Power of Corporation to make rules.
16. Superintendent of Vaccination.
Assistant Superintendents.
17. Expenses of establishments to be a charge on the Corporation.

REGISTRATION.

18. Registrar of Births to give notice of requirement of vaccination.
19. Duplicates of all certificates to be transmitted to the Registrar.
20. Registrar to keep a vaccination notice and certificate book,
21. and also a duplicate register of births with entries concerning vaccination.
22. and also a register of postponed vaccinations.
23. Transmission of returns to Superintendent.
24. Lieutenant-Governor may direct any person to perform duties of Registrar.

PROCEDURE APPLICABLE OUTSIDE THE TOWN OF CALCUTTA.

25. Powers of Corporation may be exercised in *mufassal* by Magistrate of the district;
and of Superintendent of Vaccination by Civil Surgeon.

PROSECUTIONS AND OFFENCES.

26. Magistrate may make an order for the vaccination of any unprotected child under fourteen years.
Penalty for disobedience of such order.
Proviso for costs to persons improperly summoned.
27. Penalty for not producing a child.
28. Penalty for neglect to be vaccinated.
Penalty for neglect to take child to be vaccinated, etc.
29. Penalty for making or signing false certificate.
- 29 A. Penalty for obstructing public vaccinator *or Inspector* in the discharge of his duties
- 29 B. Vexatious entry by public vaccinator *or Inspector*.
30. Prosecutions to be instituted by Lieutenant-Governor or Superintendent of Vaccination.
31. Prosecution for neglect.

MISCELLANEOUS.

32. Annual return to be made of the number of children vaccinated, etc.
33. Lieutenant-Governor to make rules.

THE FIRST SCHEDULE.

SCHEDULE A.

SCHEDULE B.

SCHEDULE C.

SCHEDULE D.

SCHEDULE E.

SCHEDULE F.

BENGAL ACT 5 OF 1880

(THE BENGAL VACCINATION ACT, 1880).¹

(26th May, 1880.)

An Act to make Vaccination Compulsory.

PRELIMINARY.

Whereas it is expedient to make vaccination compulsory Preamble.
in ²[the town of Calcutta and the port of Calcutta] and in other towns and selected local areas in the territories administered by the Lieutenant-Governor of Bengal³ to which this Act may be hereafter extended; It is hereby enacted as follows:—

1. This Act may be called the Bengal Vaccination Act, Short title.
1880;

It applies in the first instance only to ²[the town of Calcutta Extent.
and the port of Calcutta] as hereinafter defined;

But the Lieutenant-Governor⁴ may, by notification published in the Calcutta Gazette, declare his intention to extend this Act, or any of its provisions, to any town or selected local Power to extend Act to towns and local areas.
area in the territories administered by him.

Any inhabitant of such town or area objecting to such Objection to such extension.
extension may, within s x weeks from the said publication,

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1880, Pt. IV, p. 62; for Report of Select Committee, see *ibid.* p. 117; and Proceedings in Council, see *ibid.* Supplement, pp. 270, 311, 405, 406.

LOCAL EXTENT.—This Act extends to the town and port of Calcutta, and any portion of it may be extended, by notification, to any other town or selected area in Bengal—see s. 1.

Bengal Act 2 of 1911, which makes various textual amendments in the Act of 1880, applies to Calcutta as defined in clause (7) of section 3 of the Calcutta Municipal Act, 1890, to the port of Calcutta, and to the Cossipore-Chitpore, Garden Reach, Howrah, Maniktola, South Suburban and Tollyganj Municipalities; and any portion of it may be extended, by notification, to any other town or selected area—see ss. 1 and 2 of the Act, in Vol. III of this Code. Ben. Act 2 of 1911 has been extended to Eastern Bengal by the Bengal Laws Act, 1911 (Ben. Act 1 of 1911), s. 3, Sch. I.

The operation of each Act in any place may be suspended by notification—see the concluding paragraph of s. 1 of the Act of 1880, *post*, p. 161 and section 3 of the Act of 1911, in Vol. III of this Code.

The application of Ben. Act 5 of 1880 is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), in Vol. I of this Code.

AMENDMENTS MADE BY THE LOCAL SELF-GOVERNMENT ACT.—Sections 92 to 95 of the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885) are to be read with, and taken as part of Ben. Act 5 of 1880—see Ben. Act 3 of 1885, s. 95, *post*, p. 947.

Sections 92 to 94 of the Act of 1885 impose duties and confer powers on District Boards with respect to vaccination, and s. 95 empowers Commissioners of Divisions to make rules for the guidance of District Boards in the discharge of those functions.

It is provided by s. 93 of the Act of 1885 that Inspectors of Vaccination appointed by a District Board shall exercise the powers and perform the duties assigned to the Superintendent of Vaccination under the Bengal Vaccination Act, 1880, and, by s. 91, that District Boards shall have the powers of the Magistrate of the district under s. 25 of the Act of 1880.

INOCULATION.—As to the prevention of inoculation for small-pox, see the Bengal Prevention of Inoculation Act, 1865 (Ben. Act 4 of 1865), *ante*, p. 39.

² The words "the town of Calcutta and the port of Calcutta," in the preamble and in s. 1, were substituted for the words "the town, port and suburbs" by the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), ss. 2 and 3, respectively, *post*, p. 1008.

³ This includes the present Presidency of Fort William in Bengal and other territory.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa, and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Preliminary.—Sec. 2.)

send his objection in writing to the Secretary to the Government of Bengal, and the Lieutenant-Governor¹ shall take such objection into consideration.

Procedure
thereon.

When six weeks from the said publication have expired, the Lieutenant-Governor,¹ if no such objections have been sent as aforesaid, or (where such objections have been so sent in) if in his opinion they are insufficient, may by like notification² effect the proposed extension.

The Lieutenant-Governor¹ shall cause the substance of any notification mentioned in this section to be proclaimed and notified within the town or area affected by the same, in the vernacular of such town or area, by such means, and in such manner, as he may direct.

Commence-
ment.

This Act shall come into force from the day³ on which it may be published in the Calcutta Gazette with the assent of the Governor General; but its operation in any place may at any time be suspended by the Lieutenant-Governor¹ by notification in the said Gazette.

Interpretation-
clause.

2. In this Act, unless there be something repugnant in the subject or context,—

"Town of
Calcutta."

⁴ ["town of Calcutta" means Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888⁵];

"Port of
Calcutta."

"port of Calcutta" means the Port of Calcutta subject to the jurisdiction of the Commissioners appointed under Bengal Act 5 of 1870. ⁶[or any other law for the time being in force];

Ben. Act 2
of 1888.

"Parent."

"parent" includes the father and mother of a legitimate child, and the mother of an illegitimate child;

"Guardian."

"guardian" means any person to whom the care, nurture or custody of any child falls by law, or by natural right or recognized usage, or who has accepted or assumed the care, nurture or custody of any child, or to whom the care or custody of any child has been entrusted by any authority lawfully authorized in that behalf;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of notifications issued under this clause of section 1, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ *i.e.*, the 26th May, 1880—see Calcutta Gazette, 1880, Pt. III, p. 49.

⁴ This definition was substituted for the original definition by the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), s. 4 (f). The original definition ran thus:—

"'town of Calcutta' includes all places within the local limits of the ordinary original jurisdiction of the High Court of Judicature at Fort William in Bengal."

⁵ Ben. Act 3 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), and this reference should now be construed as a reference to clause (7) of s. 8 of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

⁶ These words in square brackets were added by the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), s. 4 (g), *post*, p. 1008. Ben. Act 5 of 1870 has been repealed and re-enacted by the Calcutta Port Act, 1890 (Ben. Act 3 of 1890), *post*, p. 1018.

⁷ The definition of "Suburbs of Calcutta" was repealed by the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), s. 4 (g), and is omitted. It ran thus:—

"'Suburbs of Calcutta' means the suburbs defined by the notification of the 10th September, 1877, and published in the Calcutta Gazette of the 26th September, 1877."

(Preliminary.—Sec. 2.)

“public vaccinator” means any vaccinator appointed under this Act, or any person duly authorized to act for such public vaccinator;

“Public Vaccinator.”

¹ “Inspector” means a person authorized by the Superintendent of Vaccination to exercise all or any of the functions of an Inspector under this Act;

“Inspector.”

² “medical practitioner” means any person duly qualified⁴ by a diploma, degree or license to practice in medicine or surgery,⁵ or specially licensed by the Lieutenant-Governor⁶ to practise vaccination and grant certificates under the provisions of this Act;

“Medical practitioner.”

² “medical practitioner” means any person duly qualified⁴ by a diploma, degree or license to practise in medicine or surgery;

“Medical practitioner.”

² “unprotected child” means a child who has not been protected from small-pox by having had that disease⁷ either naturally⁷ or by inoculation, or by having been successfully vaccinated, and who has not been certified under the provisions of this Act⁸ to be insusceptible of vaccination;

“Unprotected child.”

² “unprotected child” means a child who has not been protected from small-pox by having had that disease naturally or by having been successfully vaccinated, and who has not been certified under the provisions of this Act⁸ to be insusceptible of vaccination;

“Unprotected child.”

² “unprotected person” includes a child who has no parent or guardian, and means a person who has not been

“Unprotected person.”

² “unprotected person” includes a child who has no parent or guardian, and means a person who has not been

“Unprotected person.”

¹ This definition of “Inspector” was inserted by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 1, in Vol. III of this Code), and applies only in areas in which that Act is in force.

² These clauses are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the clauses lie in the words printed in italics.

³ These clauses are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

⁴ As to the meaning of the expression “duly qualified medical practitioner,” see the Bengal Medical Act, 1914 (Ben. Act 6 of 1914), s. 30, in Vol. III of this Code.

⁵ These words in italics were repealed by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 5 (2), in Vol. III of this Code), but remain in force in areas in which that Act is not in force.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁷ These words in italics were repealed by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 5 (2), in Vol. III of this Code), but remain in force in areas in which that Act is not in force.

⁸ See s. 6, post, p. 469.

(Vaccination of Children.—Sec. 3.)

protected from small-pox by having had that disease *either* naturally *or by inoculation* or by having been successfully vaccinated, and who has not been certified under the provisions of this Act² to be insusceptible of vaccination;

"Section "

"section" means a section of this Act.³

VACCINATION OF CHILDREN.

Parent or guardian of children born in compulsory limits

3. ¹The parent or guardian of every child born in any place to which this Act applies as above⁷ provided, or may hereafter be extended,⁷ shall, within *one year* after the birth of such child, and

and of unprotected children brought to reside in such limits.

the parent or guardian of every unprotected child under the age of fourteen years brought to reside, whether temporarily or permanently, in such place aforesaid.

⁵shall, within six months after such child's arrival in such place, *or, if the child be at the time of its arrival less than one year*

3. ⁶The parent or guardian of every child born in any place to which this Act applies as above⁷ provided, or may hereafter be extended,⁷ shall, within *six months* after the birth of such child, and

⁶shall, within six months after such child's arrival in such place,

¹ These words in italics were repealed by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 6 (2), in Vol. III of this Code], but remain in force in areas in which that Act is not in force.

² See s. 6, *post*, page 469.

³ In reference to the amendments made by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), it is declared by s. 2 of that Act (*post*, p. 989) that "unless there be something repugnant in the subject or context, 'vessel' includes anything made for the conveyance by water of human beings or of property."

⁴ As to the application of ss. 3 to 10 to "unprotected persons", see s. 12, *post* p. 472.

⁵ These clauses are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences in the clauses lie in the words printed in italics.

⁶ These clauses are in force in this form in areas in which Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

⁷ See s. 1, *ante*, page 463.

⁸ These words "six months" were substituted for the words "one year" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 6 (1), in Vol. III of this Code], for areas in which that section is in force.

⁹ These words in italics were repealed by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 6 (2), in Vol. III of this Code], but remain in force in areas in which that Act is not in force.

of 1880.]

(Vaccination of Children.—Sec. 4.)

old, within one year and three months after its birth; and
every unprotected child living in such place at the date of this Act coming into force,

¹ the parent or guardian of every unprotected child living in such place at the date of this Act coming into force therein, and whose age at such date exceeds one year but does not exceed fourteen years shall, within six months from the said date,

take it, or cause it to be taken, to a public vaccine-station to be vaccinated, or shall, within such period as aforesaid, cause it to be vaccinated by some medical practitioner or public vaccinator;

must procure their vaccination.

² [and the parent or guardian of every unprotected child may, whenever the Superintendent of Vaccination, as hereinafter appointed, shall deem it expedient, be served with a notice, in the form prescribed in the first Schedule of this Act, requiring the parent or guardian, within fifteen days after the service of the same, to take such child, or cause such child to be taken, to a public vaccine-station to be vaccinated, or within such period as aforesaid to cause it to be vaccinated by some medical practitioner or public vaccinator;

Unprotected child may be required to be vaccinated within fifteen days

and every such parent or guardian shall, within the said period, comply with the requisition];

and any public vaccinator to whom such child, or to whom any child under the age of fourteen years, is brought for vaccination at such vaccine-station, or who is requested to vaccinate such child elsewhere than at a public vaccine-station, is hereby required, with all reasonable despatch, subject to the conditions hereinafter mentioned, to vaccinate such child.

Public vaccinator bound to vaccinate all children brought to him.

Inspection.

⁴ "At an appointed hour on the same day in the following week after the

⁴ "At an appointed hour on a day not less than seven or more than ten days after the

Inspection.

¹ This clause is in force in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

² These clauses in square brackets were inserted in section 3 by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 3, *post*, p. 989.

³ See ss. 16, 26, *post*, pp. 474 and 177.

⁴ Section 4 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two sections lie in the words printed in italics.

⁵ Section 4 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

⁶ This clause and the next clause (in the next page) in section 4 were substituted for the original paragraph by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 4, *post*, p. 989.

⁷ This clause in s. 4 (except the portion printed in italics) was substituted for part of the original paragraph by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 4, *post*, p. 989.

⁸ These words in italics were substituted for the words "the same day in the following week" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911], s. 7 (1), in Vol. III of this Code, for areas in which that Act is in force.

(Vaccination of Children.—Sec. 4.)

operation shall have been performed, or on an earlier day, if required, the parent or guardian shall cause the child to be inspected by the operator, or by any person deputed for that purpose by the Superintendent of Vaccination, that the result of the operation may be ascertained;

²and it shall be the duty of any public vaccinator who has vaccinated a child elsewhere than at a public vaccine-station to visit the child at the time and for the purpose above mentioned, whether he is requested to do so or not, unless the Superintendent of Vaccination has deputed some other person to act for such public vaccinator in this behalf.

Repetition of
vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the public vaccinator or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

No fee shall be charged by a public vaccinator for anything done by him under this section.

operation shall have been performed, or on an earlier day, if required, the parent or guardian shall cause the child to be inspected¹ [by the operator (if a medical practitioner) or by an Inspector.] that the result of the operation may be ascertained;

³[and, when any public vaccinator has vaccinated a child elsewhere than at a public vaccine-station, an Inspector shall visit the child at the time and for the purpose above mentioned, whether he is requested to do so or not.]

Repetition of
vaccination.

In the event of the vaccination being unsuccessful, such parent or guardian shall, if the Inspector or medical practitioner so direct, cause the child to be forthwith again vaccinated and subsequently inspected as on the previous occasion.

No fee shall be charged by an Inspector for anything done by him under this section.

¹ These words in square brackets were substituted for the words "by the operator or by any person deputed for that purpose by the Superintendent of Vaccination" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 7 (2), in Vol. III of this Code], for areas in which that Act is in force.

² See foot note * on page 467 ante.

³ These words in square brackets were substituted for the words printed opposite to them by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 7 (3), in Vol. III of this Code], for areas in which that Act is in force.

⁴ These words "the Inspector" were substituted for the words "the public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 7 (4), in Vol. III of this Code], for areas in which that section is in force.

⁵ These words "an Inspector" were substituted for the words "a public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 7 (5), in Vol. III of this Code], for areas in which that section is in force.

of 1880.]

(Vaccination of Children.—Secs. 5, 6.)

If child be
unfit for
vaccination,
certificate in
Form A to be
given.

which shall
remain in
force for three
months, but
shall be
renewable.

Provision
for giving
certificate
of insuscep-
tibility of
successful
vaccination.

¹5. If any public vaccinator or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated, he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of Schedule A hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

The said certificate shall remain in force for three months only, but shall be renewable for successive periods of three months until the public vaccinator or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of Schedule C hereto annexed, according to the provisions of section 7, if warranted by the result.

²6. If any public vaccinator or medical practitioner shall find

that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that the child brought to him for vaccination has

³5. If any Inspector or medical practitioner shall be of opinion that any child is not in a fit state to be vaccinated he shall forthwith deliver to the parent or guardian of such child a certificate under his hand according to the form of Schedule A hereto annexed, or to the like effect, that the child is then in a state unfit for vaccination.

The said certificate shall remain in force for one month only, but shall be renewable for successive periods of one month until the Inspector or medical practitioner shall deem the child to be in a fit state for vaccination, when the child shall, with all reasonable despatch, be vaccinated, and a certificate of successful vaccination given in the form of Schedule C hereto annexed, according to the provisions of section 7, if warranted by the result.

⁴6. (1) If any Inspector or medical practitioner finds—

(a) that a child brought for vaccination has already had small-pox, or

(b) that a child who has been three times

If child be
unfit for
vaccination,
certificate in
Form A to be
given,

which shall
remain in
force for one
month,
but shall be
renewable.

Procedure
where child
is found to
have had
small-pox
or to be
insusceptible
of successful
vaccination.

¹ Section 5 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act¹ 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two sections lie in the words printed in italics.

² Section 5 is in force in this form in areas in Western Bengal in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

³ This word "Inspector" was substituted for the words "public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 8 (1), in Vol. III of this Code], for areas in which that section is in force.

⁴ These words "one month" were substituted for the words "three months" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 8 (2), in Vol. III of this Code], for areas in which that section is in force.

⁵ Section 6 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two sections lie in the words printed in italics.

⁶ Section 6 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force. The present section was substituted by section 9 of that Act for the section 6 printed opposite to it.

(Vaccination of Children.—Sec. 6.)

already *been successfully inoculated* or had the small-pox,

unsuccessfully vaccinated is insusceptible of successful vaccination,

he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect;

he shall deliver to the parent or guardian of such child a certificate under his hand, according to the form *in* Schedule B hereto annexed, or to the like effect.

and, if the Superintendent of Vaccination be satisfied that such child is insusceptible of successful vaccination, he shall endorse such certificate, *and the parent or guardian shall thenceforth not be required to cause the child to be vaccinated.*

(2) If the Superintendent is satisfied that such child *has already had small-pox*, or is insusceptible of successful vaccination he shall endorse such certificate.

(3) Such endorsement shall operate as an exemption from liability to vaccination,—

(I) in case (a) in sub-section (1)—absolutely, and

(II) in case (b) in that sub-section—for a period of twelve months.

(4) Upon the expiration of the said period, the parent or guardian of such child shall forthwith cause the child to be vaccinated again;

and, if an Inspector or a medical practitioner finds after two further unsuccessful vaccinations that the child is insusceptible of successful vaccination, he *shall* deliver to the parent or guardian a further certificate under his hand, according to the form of Schedule B hereto annexed, or to the like effect;

and, if the Superintendent of Vaccination be again satisfied that the child is insusceptible of successful vaccination,

(Vaccination of Children.—Secs. 7, 8.)

he shall endorse such certificate, and such endorsement shall operate as an absolute exemption from liability to further vaccination.

Provision for giving certificates of successful vaccination.

¹7. Every public vaccinator or medical practitioner who shall have performed the operation of vaccination upon any child,

and shall have ascertained that the same has been successful,

shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C hereto annexed or to the like effect, certifying that the said child has been successfully vaccinated.

No fee to be charged for vaccination at a public vaccine-station, or for certificates

8. ¹No fee or remuneration shall be charged by any public vaccinator to the parent or guardian of any child for any such certificate as aforesaid, nor for any vaccination done by him in pursuance of this Act at a public vaccine-station.

Proviso.

But, when a public vaccinator attends at the request of the parent or guardian elsewhere than at a public vaccine-station for the purpose of vaccinating a child, he shall be paid a fee not

²7. ³[When a public vaccinator or medical practitioner has performed the operation of vaccination upon any child,

and an Inspector or such practitioner has ascertained that the same has been successful,

such Inspector or practitioner, as the case may be.] shall deliver to the parent or guardian of such child a certificate according to the form of Schedule C hereto annexed or to the like effect, certifying that the said child has been successfully vaccinated.

Provision for giving certificates of successful vaccination.

8. ²No fee or remuneration shall be charged by any Inspector to the parent or guardian of any child for any such certificate as aforesaid, nor ¹by any public vaccinator for any vaccination done by him in pursuance of this Act at a public vaccine-station.

No fee to be charged for vaccination at a public vaccine-station or for certificates.

¹Section 7 and the first clause of section 8 are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two sections and clauses lie in the words printed in italics.

²Section 7 and the first clause of section 8 are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

³The words in square brackets in section 7 were substituted for the words printed opposite them by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 10, in Vol. III of this Code], for areas in which that section is in force.

⁴This word "Inspector" was substituted for the words "public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 11 (1), in Vol. III of this Code], for areas in which that section is in force.

⁵These words "by any public vaccinator" were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 11 (2), in Vol. III of this Code], for areas in which that section is in force.

[Ben. Act 5]

(Vaccination of Children.—Vaccination of Unprotected Persons.—Secs. 9-13.)

exceeding eight annas; such fee to be devoted to the purposes in the next succeeding section mentioned.

Fees how to
be appro-
priated.

9. All such fees shall, in Calcutta, be paid in by the public vaccinator to the credit of the Corporation of the Town of Calcutta¹, and be by them appropriated for the purposes of this Act.

In places outside Calcutta such fees shall be appropriated as the Lieutenant-Governor² may from time to time direct.

Superinten-
dent of
Vaccination
or his
assistants
may inspect
vaccination
of child.

10. The Superintendent of Vaccination, as hereinafter³ appointed, or any of his assistants, may, from time to time, inspect the vaccination of any child, whether performed by a public vaccinator or medical practitioner; and may, if he think fit, direct that such child be forthwith again vaccinated.

10. The Superintendent of Vaccination, as hereinafter³ appointed, or any of his assistants, *or any Inspector*, may, from time to time, inspect the vaccination of any child, whether performed by a public vaccinator or medical practitioner; and may, if he think fit, direct that such child be forthwith again vaccinated.

Superinten-
dent of
Vaccination
or his
assistants
may inspect
vaccination
of child.

VACCINATION OF UNPROTECTED PERSONS.

Unprotected
persons to be
vaccinated.

11. Every unprotected person may, whenever the said Superintendent of Vaccination shall deem it advisable, be served with a notice in the form in Schedule D hereto annexed, requiring him, within fifteen days after the service of the same, to submit himself to a public vaccinator or medical practitioner to be vaccinated; and every such person shall, within the said period, submit himself to a public vaccinator or medical practitioner for vaccination.

Former
sections
applicable.

12. The provisions of sections 3 to 10 (both inclusive) shall apply, with the necessary alterations, to the case of unprotected persons.

Health Officer
of Port may
cause vaccin-
ation of un-
protected
persons on
their arrival.

13. The powers conferred by sections 11 and 30 upon the said Superintendent of Vaccination may, in the case of unprotected persons arriving in the port of Calcutta, be exercised by the Health Officer of the said port immediately upon their arrival.

¹ The name of this body is now "the Corporation of Calcutta"—see the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), s. 6, in Vol. III of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ Section 10 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

⁴ Section 10 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

The differences between the two sections lie in the words printed in italics.

⁵ See ss. 16, 26, post, pp. 474 and 477.

⁶ These words in italics were inserted by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 12, in Vol. III of this Code), for areas in which that section is in force.

of 1880.]

(Miscellaneous.—Sec. 13A.)

¹ If a vessel arrives in the said port of Calcutta having on board any person suffering from the disease of small-pox, the said Health Officer may, if he deem it expedient in order to prevent the risk of the contagion of small-pox being conveyed into the town or suburbs of Calcutta, require any unprotected person on board such vessel to submit himself forthwith to be vaccinated; and every such person shall, before leaving the vessel, submit himself to the said Health Officer, or any person duly authorized to act in this behalf, for vaccination:

Health Officer may, in certain cases, require immediate vaccination of unprotected person on board.

² Provided that nothing herein contained shall apply to any vessel belonging to, or in the service of, Her Majesty or the Government of India, or to any vessel belonging to any foreign Prince or State.

Proviso.

² MISCELLANEOUS.

Occupier of house, etc., to allow access.

² 13A. ³ Every person occupying any house, enclosure, vessel or other place within the limits of the town or port of Calcutta, or the suburbs of Calcutta, or the town of Howrah, shall allow the Superintendent of Vaccination, or a medical practitioner, or public vaccinator duly authorized by him in this behalf, such access thereto as he may require for the purpose of ascertaining whether the inmates are protected or not, and as, having regard to the customs of the country, may be reasonable.

² 13A. ⁴ Every person occupying any house, enclosure, vessel or other place within the limits of the town or port of Calcutta, or the suburbs of Calcutta, or the town of Howrah, shall allow the Superintendent of Vaccination, or a medical practitioner, or public vaccinator ⁵or Inspector duly authorized by him in this behalf, such access thereto as he may require for the purpose of ascertaining whether the inmates are protected or not, and as, having regard to the customs of the country, may be reasonable.

Occupier of house, etc., to allow access.

Whenever it is necessary to ascertain whether a woman is protected or not, the investigation shall be conducted by a female with strict regard to the habits and customs of the country.

¹ This paragraph and proviso in s. 13 were added by the Bengal Vaccination (Amendment) Act 1887 (Ben. Act 2 of 1887), s. 5, *post*, p. 989.

² This heading and s. 13A were inserted by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 6, *post*, p. 990.

³ This clause of section 13A is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

⁴ This clause of section 13A is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

⁵ The difference between the two clauses lies in the words printed in italics.

⁶ These words "or Inspector" were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911], s. 18, in Vol. III of this Code, for areas in which that section is in force.

[Ben. Act 5]

(Procedure applicable to the Town of Calcutta only.—
Secs. 14-16.)

PROCEDURE APPLICABLE TO THE TOWN OF CALCUTTA ONLY.

Public
vaccine-
stations

14. For the purposes of this Act, the Corporation of the Town of Calcutta (hereinafter called the Corporation)¹ shall, subject to the approval of the Lieutenant-Governor,² appoint³ such stations for the performance of vaccination as they shall, from time to time, deem fit.

Such stations shall be called 'public vaccine-stations.'

Appointment
of public
vaccinators,
etc.

The Corporation¹ shall appoint such public vaccinators and vaccination-establishments for carrying out the purposes of this Act as they shall, from time to time, deem fit.

Notification
of stations
and hours of
attendance.

The positions of the public vaccine-stations fixed under the provisions of this section, and the days and hours of the public vaccinators' attendance at each station, shall be published, from time to time, in such manner as the Corporation¹ may direct.

Power of
Corporation
to make
rules.

15. The Corporation¹ may, from time to time, make such rules, consistent with this Act, as they may deem fit, for regulating the expenses of such vaccination-establishments aforesaid, the payment of public vaccinators, and the realization and scale of fees under this Act.

15. The Corporation¹ may, from time to time, make such rules, consistent with this Act, as they may deem fit, for regulating the expenses of such vaccination-establishments aforesaid, the payment of public vaccinators 'and Inspectors', and the realization and scale of fees under this Act.

Power of
Corporation
to make
rules.Superintend-
ent of
Vaccination.

16. The Health Officer for the town of Calcutta shall be *ex officio* Superintendent of Vaccination⁴ for the said town.

⁵Such officer, subject to the orders of the Lieutenant-Governor,² shall have a general control over all the proceedings of public vaccinators, and shall perform such duties in

⁵Such officer, subject to the orders of the Lieutenant-Governor,² shall have a general control over all the proceedings of public vaccinators 'and Inspectors', and shall perform

¹ As to the exercise, in areas outside Calcutta, of the powers conferred by this Act on the Corporation, see s. 35 and foot-note ¹ thereto, post, p. 477.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8 and Sch. D, items 1 and 2, in Vol. I of this Code.

³ For orders made under this clause of section 14, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ Section 16 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

⁵ Section 16 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

The difference between the two sections lies in the words printed in italics.

⁶ These words "and Inspectors" were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 14, in Vol. III of this Code], for areas in which that section is in force.

⁷ As to who is to exercise and perform, in areas outside Calcutta, the powers and duties assigned to the Superintendent of Vaccination, see s. 35, post, p. 477.

⁸ This clause of section 16 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

⁹ This clause of section 16 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

The difference between the two clauses lies in the words printed in italics.

of 1880.]

(Procedure applicable to the Town of Calcutta only.—
Registration.—Secs. 17-19.)

connection with public vaccination, in addition to those prescribed by this Act, as shall be required by the Lieutenant-Governor.¹

such duties in connection with public vaccination, in addition to those prescribed by this Act, as shall be required by the Lieutenant-Governor.¹

The Lieutenant-Governor¹ may appoint, if necessary, one or more assistants to the Superintendent, and, from time to time, remove any such assistant.

Assistant
Superintend-
ents.

17. The expenses of all vaccination-establishments under this Act, and of the supply of lymph, in Calcutta, shall, unless the Lieutenant-Governor¹ otherwise direct, be defrayed by the Corporation.

Expenses of
establish-
ments to be a
charge on the
Corporation.

REGISTRATION.

18. On the registration of the birth of any child under the provisions of Chapter X of the Calcutta Municipal Consolidation Act, 1876, or of any other law² for the time being in force, the Registrar shall deliver to the person giving information of such birth a printed notice in the form of Schedule E hereto annexed, or to the like effect; and such notice shall have attached thereto the several forms of certificates proscribed by this Act.

Registrar of
Births to
give notice of
requirement
of vaccination.

Ben. Act 4
of 1876.

Duplicates of
all certificates
to be
transmitted
to the
Registrar.

19. ³Every public vaccinator or medical practitioner, who gives to any parent or guardian a certificate in any of the forms of the said Schedules A, B and C, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births⁴ of the district where the birth of the child on whose account such

19. ³Every ⁵Inspector or medical practitioner, who gives to any parent or guardian a certificate in any of the forms of the said Schedules A, B and C, shall, within twenty-one days after giving the same, transmit a duplicate thereof to the Registrar of Births⁴ of the district where the birth of the child on whose account such

Duplicates of
all certificates
to be
transmitted
to the
Registrar.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which again has been repealed and re-enacted by the Calcutta Municipal Act, 1889 (Ben. Act 3 of 1889), and this reference should now be construed as a reference to Ch. XXXVIII of the latter Act—see the Bengal General Clauses Act, 1889 (Ben. Act 1 of 1889), s. 10, in Vol. III of this Code.

³ This clause of section 19 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code) is not in force.

The difference between the two clauses lies in the words printed in italics.

⁴ This clause of section 19 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

⁵ This word "Inspector" was substituted for the words "public vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, in Vol. III of this Code] s. 15, for areas in which that section is in force.

⁶ For power to appoint other persons to perform the duties imposed on Registrars of Births under ss. 19 to 23, see s. 34, post, p. 476.

[Ben. Act 5]

(Registration.—Secs. 20-24.)

certificate was given has been certificate was given has been registered; registered;

or, if that be not known to him, or if the child was born out of the town of Calcutta, or his birth has not been registered in the said town, to the Registrar of the district within which the child was vaccinated or presented for vaccination.

Registrar to keep a vaccination notice and certificate book,

20. The Registrar of Births¹ shall keep a book, in such form as may from time to time be prescribed by the rules made under section 33, in which he shall enter minutes of the notices of vaccination given by him as herein required, and shall also register the duplicates of certificates transmitted to him as herein provided.

and also a duplicate register of births with entries concerning vaccination,

21. He¹ shall also prepare and keep a duplicate of the register of births required to be kept by him under the provisions of the Calcutta Municipal Consolidation Act, 1876, or of any other law² for the time being in force, with such additional columns as shall, from time to time, be prescribed by the rules made under section 33, in which he shall record the date of every duplicate certificate in the form of the said Schedule B or Schedule C received by him concerning any child whose birth he has registered, and make an entry to the effect that the child has been vaccinated or is insusceptible of vaccination, as the case may be.

Ben. Act 4 of 1876.

and also a register of postponed vaccinations.

22. He¹ shall also keep a register of postponed vaccinations in the form of Schedule F hereto annexed, in which he shall record the name of every child concerning whom he receives a duplicate certificate in the form of the said Schedule A, together with the date of such duplicate certificate, and of each such successive duplicate certificate if he receives more than one; and shall show the number and year of the entry, if any, in the register of births in which such child's birth has been registered.

Transmission of returns to Superintendent.

23. Every Registrar¹ shall transmit, on or before the fifteenth of every month, to the Superintendent of Vaccination, a return, in such form as may, from time to time, be prescribed by the rules made under section 33, of all cases in which duplicate certificates have not been duly received by him, in pursuance of the provisions of this Act, during the last preceding month.

Lieutenant-Governor may direct any person to perform duties of Registrar.

24. The Lieutenant-Governor³ may direct that the duties imposed on the Registrar of Births under sections 19, 20, 21, 22 and 23 shall be performed by any other person appointed by the Lieutenant-Governor.³

¹ For power to appoint other persons to perform the duties imposed on Registrars of Births under ss. 19 to 23, see s. 24, on this page.

² Ben. Act 4 of 1876 was repealed and re-enacted by Ben. Act 2 of 1888, which again has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now be construed as a reference to Ch. XXXVIII of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, items 1 and 2, in Vol. I of this Code.

of 1880.]

*(Procedure applicable outside the Town of Calcutta.—
Prosecutions and Offences.—Secs. 25, 26.)*

PROCEDURE APPLICABLE OUTSIDE THE TOWN OF CALCUTTA.

25. In any municipality other than the town of Calcutta, and in any local area to which this Act may hereafter be extended,¹ the Magistrate of the district² may exercise all or any of the powers by this Act conferred upon the Corporation; and the Civil Surgeon of the district, or such other officer as the Lieutenant-Governor³ may, from time to time, appoint in that behalf, shall exercise the powers and perform the duties by this Act assigned to the Superintendent of Vaccination.

Powers of Corporation may be exercised in municipalities of the district; and of Superintendent of Vaccination by Civil Surgeon.

PROSECUTIONS AND OFFENCES.

26. If the Superintendent of Vaccination shall notify in writing to a Magistrate that he has reason to believe, from the statement of an informant or otherwise, that any child under the age of fourteen years is an unprotected child, and that he has given notice to the parent or guardian of such child to procure its being vaccinated, and that the said notice has been disregarded, such Magistrate may summon such parent or guardian to appear with the child before him; and if the Magistrate shall find, after such inquiry as he shall deem necessary, that the child is an unprotected child, he may, whether the child has been produced or not, make an order directing such child to be vaccinated within a certain time.

Magistrate may make an order for the vaccination of any unprotected child under fourteen years.

If the child is at any time produced before him, the Magistrate may, unless the child is certified under section 5 to be in a state unfit for vaccination, order it to be vaccinated forthwith in his presence, and in that case may punish such parent or guardian, for any recusancy under this clause, with fine which shall not exceed five rupees.

If, at the expiration of the time appointed by the Magistrate, the child shall not have been vaccinated, or shall not be shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom such order shall have been made shall, unless he can show some reasonable ground for his omission to carry the order into effect, be punished with fine which may extend to fifty rupees:

Penalty for disobedience of such order.

Provided that, if the Magistrate shall be of opinion that the person is improperly brought before him, and shall refuse to make an order for the vaccination of the child, he may direct the said Superintendent to disclose the name of his informant,

Proviso for costs to persons improperly summoned.

¹ See s. 1, *ante*, page 463.

² As to the exercise by District Boards of powers of appointment, etc., of public vaccinators and of Inspectors of Vaccination (to exercise the functions of the Superintendent of Vaccination), and powers of the District Magistrate, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), ss. 97 to 94, *post*, p. 947.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Prosecutions and Offences.—Secs. 27, 28.)

if any, and may order such informant to pay to such person such sum of money as the Magistrate shall consider a fair compensation for expenses and loss of time in attending before him :

Provided also that nothing in this section shall be held to compel the production before a Magistrate of any female child above the age of eight years.

Penalty for
not producing
a child.

27. If any parent or guardian intentionally omits to produce a child whom he has been summoned to produce under the last preceding section, he shall be liable to fine which may extend to one hundred rupees and to a further fine of twenty-five rupees for every day during which the offence continues :

Provided that the aggregate amount of fine for such offence shall not exceed one thousand rupees.

28. Whoever, in contravention of this Act,—

Penalty for
neglect to be
vaccinated.

¹(a) neglects without reasonable excuse to submit himself, within fifteen days after the service on him of the notice prescribed by section 11, to a public vaccinator or medical practitioner to be vaccinated, or after vaccination to be inspected, or

¹(a) neglects without reasonable excuse to submit himself, within fifteen days after the service on him of the notice prescribed by section 11, to a public vaccinator or medical practitioner to be vaccinated, or ²to the operator (if a medical practitioner) or to an Inspector after vaccination to be inspected, or

Penalty for
neglect to be
vaccinated.

Penalty for
neglect to
take child
to be
vaccinated,
etc.

(b) neglects without reasonable excuse to take or cause a child to be taken to be vaccinated, or after vaccination to be inspected, or

(c) neglects to fill up and sign and give to any person or to the parent or guardian of any child any certificate which such person, parent or guardian is entitled to receive from him, or to transmit a duplicate of the same to the Registrar of Births, ⁴ or

¹ Clause (a) of section 28 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

² Clause (a) of section 28 is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

The difference between the two clauses lies in the words printed in italics.

³ These words in italics were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 10, in Vol. III of this Code], for areas in which that section is in force.

⁴ This word "or," in s. 28 (c), was added by the Bengal Vaccination (Amendment) Act, 1937 (Ben. Act 2 of 1937), s. 7, post, p. 590.

of 1880.]

(Prosecutions and Offences.—Secs. 29-30.)

¹(d) refuses without reasonable excuse to submit himself to be vaccinated when required so to do by the Health Officer exercising the powers conferred upon him by section 13,

shall be punished for each such offence with fine which may extend to fifty rupees.

No prosecution under this section shall be instituted after the expiry of twelve months from the date on which the offence has been committed.

29. Whoever wilfully signs or makes, or procures the signing or making of, a false certificate or duplicate certificate under this Act, shall be punished with imprisonment of either description, within the meaning of the Indian Penal Code,¹ for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both.

Penalty for making or signing false certificate.

45 of 1860.

Penalty for obstructing public vaccinator in the discharge of his duties.

29A. Whoever voluntarily obstructs any public vaccinator in the discharge of the duties assigned to him as such shall be punished for each such offence with fine which may extend to fifty rupees.

29A. Whoever voluntarily obstructs any public vaccinator *or Inspector* in the discharge of the duties assigned to him as such shall be punished for each such offence with fine which may extend to fifty rupees.

Penalty for obstructing public vaccinator *or Inspector* in the discharge of his duties.

Vexatious entry by public vaccinator.

29B. Any public vaccinator who vexatiously and unnecessarily enters any house, enclosure, vessel or other place, on pretence of ascertaining whether the inmates, or any of them, are protected or not, shall, for every such offence, be punished with fine which may extend to fifty rupees.

29B. Any public vaccinator *or Inspector* who vexatiously and unnecessarily enters any house, enclosure, vessel or other place, on pretence of ascertaining whether the inmates, or any of them, are protected or not, shall, for every such offence, be punished with fine which may extend to fifty rupees.

Vexatious entry by public vaccinator *or Inspector*.

30. All offences under this Act shall be cognizable by a Magistrate, subject to the provisions of any law² for the time being in force for the trial of offences; but no complaint of any such offences shall be entertained unless the prosecution be

Prosecutions to be instituted by Lieutenant-Governor or Superintendent of Vaccination.

¹ This clause (d) was added by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 7, *post*, p. 990.

² See Act 45 of 1860, s. 58, in General Acts, 1834-67, Ed. 1909, p. 256.

³ Sections 29A and 29B were inserted by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 8, *post*, p. 990.

⁴ Sections 29A and 29B are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911 in Vol. III of this Code) is not in force.

⁵ Sections 29A and 29B are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

⁶ The differences between the sections lie in the words printed in italics.

⁷ These words *“or Inspector”* were inserted by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 12, in Vol. III of this Code), for areas in which that section is in force.

⁸ See now the Code of Criminal Procedure, 1896 (5 of 1896), in General Acts, 1896-1906, Ed. 1909, p. 32.

(Prosecutions and Offences.—Miscellaneous.—Secs. 31-33.)

instituted by order of, or under authority from, the Lieutenant-Governor¹ or the Superintendent of Vaccination.

Prosecution
for neglect.

31. In any prosecution for neglect to procure the vaccination of a child it shall not be necessary in support thereof to prove that the defendant had received notice from the Registrar or any other officer of the requirements of the law in this respect;

but, if the defendant produce any such certificate as herein before described, or the duplicate of the register of births or the register of postponed vaccinations kept by the Registrar as hereinbefore provided, in which such certificate shall be duly entered, the same shall be a sufficient defence for him, except in regard to the certificate according to the form of the said Schedule A, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid.

MISCELLANEOUS.

Annual
return to be
made of the
number of
children vac-
cinated, etc.

32. It shall be the duty of the Superintendent of Vaccination to show in an annual return the number of children successfully vaccinated, the number whose vaccination has been postponed, and the number certified to be insusceptible of successful vaccination during the year; and generally to fill up any forms that may be prescribed, from time to time, by the Lieutenant-Governor¹ or the Corporation.

Lieutenant-
Governor to
make rules.

33. The Lieutenant-Governor¹ may, from time to time make rules² or issue orders³, consistent with this Act,—

‘(a) determining the quali- ‘(a) determining the quali-
fications to be required of fications to be required of
public vaccinators; public vaccinators ‘and In-
spectors;’

(b) regulating the scale of fees to be paid outside the town of Calcutta;

(c) regulating the gratuitous vaccination of such females as are by the custom of the country unable to attend at the public vaccine-stations and are too poor to pay fees.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For rules made under section 33, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ As to the local extent of rules and orders issued under section 33 for Calcutta, and as to the power of the Local Government to modify or cancel such rules and orders, see the Bengal Vaccination (Amendment) Act, 1890 (Ben. Act 2 of 1890), s. 5, *post*, p. 1003.

As to the power of the Commissioner to make rules for the guidance of District Boards in matters relating to vaccination, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 33, *post*, p. 947.

⁴ Clause (a) is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

⁵ Clause (a) is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

The difference between the two clauses lies in the words printed in italics.

⁶ These words “and Inspectors” were inserted by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 14, in Vol. III of this Code), for areas in which that section is in force.

of 1880.]

(First Schedule.)

(d) providing for the supply of lymph ;

¹(e) regulating the books and forms to be kept by the public vaccinators or by Registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act; and generally

¹(f) for the guidance of public vaccinators and others in all matters connected with the working of this Act.

²(e) regulating the books and forms to be kept by the public vaccinators ¹and *Inspectors* or by Registrars, and also such forms as shall be required for the signature of medical practitioners under the provisions of this Act; and generally

²(f) for the guidance of public vaccinators ²and *Inspectors* and others in all matters connected with the working of this Act.

All such rules or orders shall be published in the Calcutta Gazette.

THE FIRST SCHEDULE.

(See section 3.)

To

(Here insert the name of the parent or guardian.)

TAKE notice that you are hereby required, under the provisions of the Bengal Vaccination Act, 1880, to take, or cause (*here insert the name of the child*), the child of (*here insert the name of the father*), to be taken to a public vaccine-station for vaccination, or to cause it to be vaccinated by some medical

¹ Clauses (e) and (f) are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

² Clauses (e) and (f) are in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911), is in force.

The differences between the two clauses lie in the words printed in italics

³ These words "and Inspectors" were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 14, in Vol. III of this Code], for areas in which that section is in force.

⁴ This Schedule was annexed to this Act by the Bengal Vaccination (Amendment) Act, 1887 (Ben. Act 2 of 1887), s. 8, as amended by the Amending Act, 1897 (5 of 1897)—see *post*, p. 969.

(Schedule A.)

practitioner or public vaccinator within fifteen days from the service of this notice, and that in default of so doing you will be liable to a fine of fifty rupees.

The public vaccine-station nearest your house is at _____ ;
the days and hours for vaccination at that station
are as follows:—

(Here insert the days and hours when the public vaccinator is in attendance.)

On the said (here insert the name of the child) being brought before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the town on the days, and within the hours prescribed for public vaccination at such station, the said (here insert the name of the child) will be vaccinated free of charge.

If you wish the said (here insert the name of the child) to be vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of

Dated the _____ of _____, 18 ____.

Superintendent of Vaccination.

or Civil Surgeon (as the case may be).

¹SCHEDULE A.

(See section 5.)

I, the undersigned, hereby
certify that, in my opinion _____,
the child of _____, resident
at _____,
is not now in a fit and proper
state to be vaccinated, and I
do hereby recommend that
the vaccination be postponed

²SCHEDULE A.

(See section 5.)

I, the undersigned, hereby
certify that, in my opinion _____,
the child of _____, resident
at _____,
is not now in a fit and proper
state to be vaccinated, and I
do hereby recommend that
the vaccination be postponed

¹ Schedule A is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two Schedules lie in the words printed in italics.

² Schedule A is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

of 1880.]

(Schedule B.)

for the period of *three* months from this date. for the period of *one* month from this date.

Dated the day of , 18 . Dated the day of , 18

(Signature of Medical Practitioner or *Public Vaccinator*.) (Signature of Medical Practitioner or *Inspector*.)

'SCHEDULE B.

(See section 6.)

I, the undersigned, hereby certify that I have three times unsuccessfully vaccinated , the child of , residing at (or that the child has already had small-pox, as the case may be),

and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of , 18 .

(Signature of Medical Practitioner or *Public Vaccinator*.)

(Endorsement by Superintendent of Vaccination.)

'SCHEDULE B.

(See section 6.)

I, the undersigned, hereby certify that , the child of , residing at , has already had small-pox (or, as the case may be) that I have (*or a public vaccinator has*) three times (*or twice as the case may be*) unsuccessfully vaccinated , the child of ,

residing at , and I am of opinion that the said child is insusceptible of successful vaccination.

Dated this day of , 18 .

(Signature of Medical Practitioner or *Inspector*.)

(Endorsement by Superintendent of Vaccination.)

¹ These words "one month" were substituted for the words "three months" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 17(1), in Vol. III of this Code], for areas in which that section is in force.

² This word "Inspector" was substituted for the words "Public Vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 17 (2), in Vol. III of this Code], for areas in which that section is in force.

³ Schedule B is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

The differences between the two Schedules lie in the words printed in italics.

⁴ Schedule B is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force. The present Schedule was substituted by section 18 of that Act for the Schedule B printed opposite to it.

(Schedules C, D.)

1SCHEDULE C.

2SCHEDULE C.

(See section 7.)

(See section 7.)

I, the undersigned, hereby
certify that . the child
of , age ,
resident at , has been
successfully vaccinated by me.

I, the undersigned, hereby
certify that , the child
of , age ,
resident at , has been
successfully vaccinated by me
3(or by a public vaccinator).

Dated this day , 18 . Dated this day , 18 .

(Signature of Medical Prac-
titioner or Public
Vaccinator)

(Signature of Medical Practi-
tioner or 4Inspector.)

SCHEDULE D.

(See section 11).

TAKE notice that you are hereby required, under the provisions of the Bengal Vaccination Act, 1880, to submit yourself to a public vaccinator or medical practitioner within fifteen days from the service of this notice for vaccination, and that in default of so doing, you will be liable to a fine which may amount to fifty rupees.

The public vaccine-station nearest your house is at .

The days and hours for vaccination at that station are as follows:—

(Here insert the days and hours when the public vaccinator is in attendance.)

On your attending before a public vaccinator at the said station within the said hours on any of the said days, or at any other public vaccine-station in the town on the days and within the hours prescribed for public vaccination at such station, you will be vaccinated free of charge.

¹ Schedule C is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

² The differences between the two Schedules lie in the words printed in italics.
³ Schedule C is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

⁴ These words in italics were inserted by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 19 (1), in Vol. III of this Code], for areas in which that section is in force.

⁵ This word "Inspector" was substituted for the words "Public Vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 19(2), in Vol. III of this Code], for areas in which that section is in force.

of 1880.]

(Schedule E.)

If you wish to be vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of

Dated the of , 18

*Superintendent of Vaccination,
or Civil Surgeon (as the case may be). ..*

SCHEDULE E.

(See section 18.)

To

(Here insert the name of the parent, guardian, or other person who gives information of the child's birth.)

¹ TAKE notice that the child of (here enter the mother's name), whose birth has this day been registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within *one year* from the date of its birth, under penalty.

² TAKE notice that the child of (here enter the mother's name), whose birth has this day been registered, must be vaccinated under the provisions of the Bengal Vaccination Act, 1880, within ³*six months* from the date of its birth, under penalty.

The public vaccine-station nearest to the house in which the child was born is at No. . The days and hours for vaccination at that station are as follows :—

(Here insert the days and the hours when the public vaccinator is in attendance.)

On your taking or causing the child to be taken to the public vaccinator at the said station within the said hours

¹ This clause of Schedule E is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force. The difference between the two clauses lies in the words printed in italics.

² This clause of Schedule E is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

³ These words "six months" were substituted for the words "one year" by the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, s. 20(f), in Vol. III of this Code), for areas in which that section is in force.

[Ben. Act 5 of 1880.]

(Schedule F.)

on any of the said days, or at any other public vaccination station in the city on the days and within the hours prescribed for public vaccination at such station, it will be vaccinated free of charge.

If you wish to have the child vaccinated at your own house, the public vaccinator will attend there upon payment of a fee of .

¹You should be careful to have one of the annexed forms of certificate filled in by *the Public Vaccinator*, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by *a Public Vaccinator* free of charge.

²You should be careful to have one of the annexed forms of certificate filled in by *an Inspector*, or, if you employ a private medical practitioner to vaccinate the child, by such medical practitioner, and to keep the same in your possession. Any such certificate will be granted to you by *an Inspector* free of charge.

Dated the of , 18 .

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SCHEDULE F.

(See section 22.)

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Consecutive number.	Name of child.	BIRTH.		Date of certificate of postponement.	Signature of Registrar.
		Year.	Number of entry in register.		
1	Ram Ulunder Das	1878	12	1878. May 10	H. O.

¹ This clause of Schedule E is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is not in force.

² The difference in the two clauses lie in the words printed in italics.

³ This clause of Schedule E is in force in this form in areas in which the Bengal Vaccination (Amendment) Act, 1911 (Ben. Act 2 of 1911, in Vol. III of this Code), is in force.

⁴ These words "an Inspector" were substituted for the words "the Public Vaccinator" by the Bengal Vaccination (Amendment) Act, 1911 [Ben. Act 2 of 1911, s. 20(2), in Vol. III of this Code], for areas in which that section is in force.

BENGAL ACT 6 OF 1880

(THE BENGAL DRAINAGE ACT, 1880).

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SCHEDULE B.

BENGAL ACT 6 OF 1880

(THE BENGAL DRAINAGE ACT, 1880).¹

(9th June, 1880.)

An Act to provide for the drainage and improvement of lands.

Whereas it is expedient that provision should be made ^{Preamble.}
for the better drainage and improvement of lands in the
territories administered by the Lieutenant-Governor of
Bengal²; It is hereby enacted as follows:—

PRELIMINARY.

1. This Act may be called The Bengal Drainage Act, Short title.
1880:

It extends to all the territories for the time being under the ^{Extent.}
administration of the Lieutenant-Governor of Bengal²

(Commencement). *Rep. by the Repealing and Amending
Act, 1903 (1 of 1903), now known as the Amending Act, 1903—
vide Act 10 of 1914, Sch. II.*

2. Bengal Act 5 of 1871 (*the Hooghly and Burdwan
Drainage Act*) shall be repealed on and from the date upon <sup>Repeal of
Bengal Act 5
of 1871.</sup>
which this Act comes into force: but, subject to the provisions
of this Act, this repeal shall not affect the past operation of
such Act, or anything duly done or suffered, or any right,
privilege, obligation or liability acquired, accrued or incurred
thereunder.

3. In this Act, unless there be something repugnant in the <sup>Interpreta-
tion-clause.</sup>
subject or context,—

“the Collector” means the officer in charge of the revenue <sup>“The Collect
or.”</sup>
jurisdiction of the district within which the lands which form
the subject of a scheme under this Act, or the greater portion
of such lands, are situate. If any doubt arises as to whether
the greater portion of the lands is situate within one or two
or more districts, the Board of Revenue³ shall decide the point,
and such decision shall be final:

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1879, Pt. IV, p. 64; for Report of Select Committee, see *ibid*, 1880, Pt. IV, p. 100; and for Proceedings in Council, see *ibid*, 1879, Supplement, pp. 831, 891 and 1448; *ibid*, 1880, Supplement, pp. 286, 384 and 409.

LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal—see s. 1.
The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

OTHER ENACTMENTS.—As to the drainage of rural areas, see also the Bengal Irrigation Act, 1876 (Ben. Act 8 of 1876), ante, p. 318, and the Bengal Sanitary Drainage Act, 1896 (Ben. Act 8 of 1896), in Vol. III of this Code.

The Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), does not apply to any embankment, land or water-course which is under the operation of Bengal Act 6 of 1880—see Bengal Act 2 of 1882, s. 91.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918)

(Preliminary.—Sec. 3.)

"Certificate officer."

¹ "Certificate officer" means a Certificate officer as defined in clause (2) of section 4 of the Public Demands Recovery Act, 1895.² Ben. Act 1 of 1895.

"The Commissioners."

"the Commissioners" mean the Drainage Commissioners to be appointed under this Act:

"Estate."

"estate" means land included under one entry in the general registers of revenue-paying lands and revenue-free lands, prepared and maintained under the law³ for the time being in force by any Collector of a district, or a share of, or interest in, such land:

"Proprietor."

"proprietor" means a person who as owner is solely or jointly in possession of an estate:

"Tenure."

"tenure" means—

- (1) a permanent rent-paying interest in land immediately subordinate to that of a proprietor and superior to that of a *raiyyat*, extending to not less than one hundred standard *bighas*, affected, or to be affected, by any works under this Act;
- (2) a permanent revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists no rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest:

"Under tenure."

"under-tenure" means—

- (1) a permanent rent-paying interest in land subordinate to that of a tenure-holder and superior to that of a *raiyyat*, extending to not less than one hundred standard *bighas*, affected or to be affected by any works under this Act;
- (2) a revenue-free or rent-free interest in land affected or to be affected by any works under this Act, when there exists a rent-paying interest in the same land between the proprietary interest in the estate and such revenue-free or rent-free interest:

Explanation.—The term "permanent" is used with reference to the tenure or under-tenure itself, and not with reference to the person who happens to hold such tenure or under-tenure for the time being. A tenure or under-tenure is none the less permanent, although held by a Hindu widow a *Sebat* or a person subject to the *Mitakshara* law:

"Landholder and 'holder of land."

"landholder" and "holder of land" mean—

- (1) any person who as owner of an estate is solely or jointly in possession thereof;

¹ This definition of "Certificate officer" was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 2, in Vol. III of this Code.

² Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), and this reference should now be construed as a reference to cl. (2) of s. 8 of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

³ See the Land Registration Act, 1876 (Ben. Act 7 of 1876), *ante*, p. 248.

of 1880.]

(Preliminary.—Part I.—Appointment of Commissioners and Conduct of Business.—Sec. 4.)

(2) any person who as owner of a tenure or under-tenure is solely or jointly in possession thereof:

where two or more persons are joint landholders, they shall be jointly and severally liable under this Act, except as is otherwise expressly provided herein:

“reclaimed land” means land which was unfit for cultivation before the execution of any works under this Act, but which has been rendered productive by such works:

“improved land” means land which was more or less fit for cultivation before the execution of any works under this Act, but of which the productive powers have been increased by such works:

“Part” and “section” mean, respectively, a Part and section of this Act.

“Reclaimed land.”

“Improved land.”

“Part” and “section.”

PART I.

APPOINTMENT OF COMMISSIONERS AND CONDUCT OF BUSINESS.

4. Whenever it appears expedient to the Lieutenant-Governor¹ to carry out any scheme and plans for the drainage and improvement of any tract of land, the Lieutenant-Governor¹ may appoint² any number of persons, not less than seven, of whom the majority shall be qualified by being holders of lands to be affected by the works mentioned in the said scheme and plans, or managers on behalf of such holders, to be Drainage Commissioners for carrying out the provisions of this Act; and the Lieutenant-Governor¹ may, from time to time, remove or accept the resignation of any such Commissioner, or may add to the number of the Commissioners, and may appoint another person in the place of any such Commissioner dying, resigning, being removed or ceasing to reside in the district in which such lands are situate, but so as that the majority of the Commissioners shall always be persons qualified as aforesaid.

Lieutenant-Governor to appoint Commissioners.

No act done or proceeding taken by the Commissioners shall be invalid merely on the ground that at the time of doing such act or of taking such proceeding the majority of the Commissioners were not persons qualified as aforesaid.

5. The Lieutenant-Governor¹ shall from time to time appoint³ one of the persons so appointed Commissioners as aforesaid to be Chairman of the Commissioners, and may at

Lieutenant-Governor to appoint Chairman.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of appointments made under section 4 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ For a list of appointments made under section 5 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.—Appointment of Commissioners and Conduct of Business.—Secs. 6-10.)

any time, if he see fit, revoke such appointment and appoint another of such persons to be Chairman.

Commissioners may sue and be sued in his name.

The Commissioners may sue and be sued in the name of their Chairman.

Meetings of Commissioners and quorum.

6. The Commissioners shall ordinarily meet for the transaction of business once at least in every quarter.

Such meeting shall be held upon such day and at such hour as the Commissioners shall from time to time determine.

No business shall be transacted at any meeting unless at least three members are present at the commencement and close of such business.

Extraordinary meetings.

7. The Chairman of the Commissioners may, whenever he thinks fit, and shall, upon request made in writing by three of the Commissioners, call an extraordinary meeting of the Commissioners.

Presidency of meetings.

8. The Chairman shall preside at every meeting of the Commissioners: but, in case of his absence at the time appointed for holding a meeting, the Commissioners present may choose one of their number to be President of such meeting.

Transaction of business at meetings.

9. (1) All questions at any meeting, including the question of adjourning such meeting, shall be decided by a majority of votes of the members present. In case of an equality of votes the President for the time being of such meeting shall have a second or casting vote.

Delegation of powers to Committee.

(2) The Commissioners may delegate any of their powers to Committees consisting of such member or members of the body as they think fit. Any Committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Commissioners.

Election of Chairman of Committee.

(3) A Committee may elect a Chairman at their meetings. If no Chairman is elected, or if he is not present at the time appointed for holding any meeting, the members present shall choose one of their number to be Chairman of the same.

Adjournment, voting, etc., of Committee.

(4) A Committee may meet and adjourn as they think proper. Questions at any meeting shall be determined by a majority of votes of the members present, and in case of an equal division of votes the Chairman shall have a second or casting vote.

Power to appoint servants.

10. The Chairman of the Commissioners may, by an order in writing, appoint and dismiss such servants and officers, other than engineers and their subordinates, as may be required for the purposes of this Act, and he may control them as he shall see fit.

There shall be paid to such servants and officers, respectively, such salaries as may appear to the Commissioners to be proper.

of 1880.]

(Part I.—Appointment of Commissioners and Conduct of
Business.—Part II.—Drainage Scheme.—Secs. 11-14.)

11. The Lieutenant-Governor¹ may, when satisfied that the objects of their appointment have been fulfilled, direct that the powers and functions of the Commissioners shall cease.

When objects of their appointment fulfilled, Lieutenant-Governor may direct Commissioners' powers and functions to cease.

PART II.

DRAINAGE SCHEME.

12. The Commissioners shall, within three months after their appointment, cause a notification, in the language of the district, to be published by beat of drum in every village in which may be situate any portion of the lands to be affected by the works proposed in such scheme and plans.

Commissioners to cause a notification of the scheme to be published.

Every such notification shall be in the form in Schedule A hereto annexed, and shall further be published by posting the same at the office of the Collector and of the Sub-divisional Officer, and in some conspicuous part of the village aforesaid, and at the Court of the *Munsif* within whose jurisdiction, and at the *thana* within the limits of which such village is situate.

13. After the date named in such notification a list of the persons who may have given their assent or made any objection in writing in accordance with such notification shall be prepared and published, in the manner provided in section 12, for the information of all concerned.

List of persons assenting or objecting to be published.

Such list shall contain a specification of the land in respect of which such persons claim to vote as landholders, and of the titles in virtue of which they claim to vote, respectively; and there shall be appended thereto a notice that objections to the right of voting so claimed must be lodged with the Commissioners within one month after the publication of the said list.

14. (1) The Commissioners may, at some meeting to be held not less than one month after such list has been published under the provisions of section 13, proceed to ascertain whether the holders of half of the lands to be reclaimed or improved have assented in writing to the adoption of the scheme.

Commissioners how to ascertain what proprietors have assented

For the purpose of so ascertaining, the Commissioners shall take into account the vote of not more than one landholder in respect of any one portion of the area affected; and, whenever more than one landholder shall have given his vote in respect of the same portion of such area, the Commissioners shall take into account the vote of the landholder who holds the lowest interest in respect of such area, and shall not take into account

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8 and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part II.—Drainage Scheme.—Secs. 15, 16.)

in respect of such area the vote of any superior landholder who may have voted.

Example—

- A gives his vote as proprietor of 5,000 *bighas* ;
 B, as *patnidar* of 2,000 *bighas* included in A's proprietary of 5,000 *bighas* ;
 C, as *mukarraridar* of 100 *bighas* included in B's *patni* ;
 D, as holding a permanent *jama* of 500 *bighas* included in A's proprietary of 5,000 *bighas* ; but not in B's *patni* of 2,000 *bighas* :

the Commissioners shall take into account the votes of the respective landholders in respect of the following areas :—

					<i>Bighas.</i>
D for	...	...	...	...	500
C "	...	...	...	...	100
B "	(2,000 - 100 =)	...	...	...	1,900
A "	(5,000 - 2,000 - 500 =)	...	...	...	2,500
				Total	5,000

Vote for
estate, tenure,
etc., held by
two or more
co-sharers.

(2) One vote only shall be allowed in respect of an estate, tenure or under-tenure belonging to two or more co-sharers.

In order to ascertain whether this vote shall be taken as assenting or objecting to the adoption of the scheme, regard shall be had to the votes of the co-sharers individually, and account shall be taken of those only who actually vote.

If the majority assent, a vote of assent shall be deemed to have been given in respect of the estate, tenure or under-tenure.

If the majority object, a vote of objection shall be deemed to have been given.

If the number assenting and the number objecting are equal, no vote shall be deemed to have been given in respect of such estate, tenure or under-tenure.

15. The Commissioners may, in their discretion, refuse to take into account the vote of any person who, after being required to do so, fails to specify the extent of land held by him and the nature of the interest which he has in such land.

16. (1) Whenever the right of any person to vote as a holder of any land shall be disputed, the Commissioners shall determine whether the vote of such person shall or shall not be accepted in respect of such land; and their determination shall be final for the purposes of section 17:

Provided that any "recorded proprietor," as defined by section 3 of the Land Registration Act, 1876,¹ shall be entitled

Persons
voting to
specify the
extent of
their lands.

Commis-
sioners to
decide who
is entitled
to vote.

Ben. Act 7
of 1876.

¹ Printed ante, page 845.

of 1880.]

(Part II.—*Drainage Scheme.*—Secs. 17-20.)

to vote in respect of any property of which he is the recorded proprietor.

(2) In the case of a landholder who is a proprietor disqualified to manage his own property under the provisions of the Court of Wards Act, 1879,¹ or any similar law for the time being in force, or who is a minor or a lunatic, the right to vote shall be exercised by any manager of the property of such disqualified proprietor or minor or lunatic, appointed by the Court of Wards, or by the Civil Court under the provisions of any law for the time being in force, or, where no such manager has been appointed, by any person who, in the opinion of the Commissioners, duly represents the interests of such minor or lunatic.

Vote for
property
held by a
minor or
lunatic.

(3) Where the holder of any land cannot be found, such land shall be altogether excluded in any computation that may be made in order to determine whether the landholders of not less than half of the area to be reclaimed or improved have assented to the adoption of the scheme.

Case of land-
holder not
found.

17. If the landholders of not less than half of the area to be reclaimed or improved, ascertained as above provided, shall have assented to the adoption of the scheme, and not otherwise, the Commissioners shall proceed to consider such scheme, together with the plans and estimates for carrying out the same, and shall further consider such objections as have been made thereto; and may adopt such schemes,² plans and estimates or may alter and modify the same and adopt the scheme, plans and estimates so altered or modified, or may disapprove or reject the same.

If half of
landholders
agree, Com-
missioners
to consider
the scheme
submitted.

18. If the landholders of half of the area to be reclaimed and improved do not assent to such scheme, but the landholders of half the area to be affected by some portion of such scheme assent thereto, the Commissioners may re-submit such portion of the scheme to the Lieutenant-Governor³, and may, with his approval, proceed thereupon in manner aforesaid.

Power to
proceed with
portion of
scheme.

19. If the Commissioners adopt such scheme, plans and estimates, or any modification or alteration thereof, they shall, within one month after such scheme, plans and estimates, or some modification or alteration thereof, have been adopted by them, cause the same to be laid before the Lieutenant-Governor¹;

Scheme
approved by
Commis-
sioners to
be laid
before the
Lieutenant-
Governor.

and the Lieutenant-Governor¹ may sanction the scheme, plans and estimates so adopted, or any portion thereof, as to him shall seem fit.

20. (1) The Commissioners may, with the previous assent of the Lieutenant-Governor¹, at any time re-consider any

Power to
re-consider
scheme and
modify it.

¹ Printed *ante*, page 406.

² *Sic.* Read scheme.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part II.—Drainage Scheme.—Secs. 21, 22.)

scheme, plans or estimates adopted by them, and add to, alter or modify the same;

and, when any addition, alteration or modification has been adopted by them, they shall cause the same to be laid before the Lieutenant-Governor¹.

The Lieutenant-Governor¹ may sanction such addition, alteration or modification, or any portion thereof, as he may think fit;

and, thenceforth the provisions of this Act shall apply to such addition, alteration or modification as if it had been a portion of the original scheme, plans or estimates; and every such addition, alteration or modification, after it has been adopted, shall be published by the Commissioners as to them shall seem fit.

No such addition, alteration or modification shall be adopted at a meeting at which the majority of the members present are not qualified as provided by section 4.

Publication
of modified
scheme.

(2) No addition, alteration or modification, under clause (1), to or of any scheme which affects any lands other than those which would be affected by some scheme theretofore published, shall be adopted by the Commissioners until the same has been published, for not less than fifteen days, according to the provisions of section 12, in every village in which may be situate any portion of the lands to be affected by such addition, alteration or modification;

nor shall any such addition, alteration or modification be adopted unless the landholders of not less than half the entire area to be affected by the scheme as so added to, altered or modified, assent to the same.

Power for
the acquisition
of land.

21. When the Lieutenant-Governor¹ has sanctioned any scheme, plans and estimates as aforesaid, or some portion thereof, he may direct proceedings to be taken under the provisions of the Land Acquisition Act, 1870, or any other law² for the time being in force for the acquisition of land for public purposes, in order to obtain any land likely to be required for the works mentioned in such sanctioned scheme, plans and estimates, or any portion thereof.

10 of 1870.

Lieutenant-
Governor may
order scheme
to be carried
out.

22. The Lieutenant-Governor¹ may, if he thinks fit, order the works specified in such sanctioned scheme, plans and estimate, or portion thereof, to be executed by an officer to be thereunto appointed by the Lieutenant-Governor¹;

and may, subject to the sanction to the Governor General of India in Council, order the advance from the public funds of such sum of money as may be required for the purpose of making such improvements:

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² See now the Land Acquisition Act, 1894 (1 of 1894), which repeals and re-enacts the Act of 1870. The Act of 1894 is printed in the General Acts, 1887-97, Ed. 1908, p. 263.

of 1880.]

(Part II.—Drainage Scheme.—Secs. 23, 24.)

and such officer may cause the works specified in such scheme and plans to be executed, and for that purpose may by himself, his agents and workmen enter into or upon any lands and perform such works thereupon as may be required.

23. The Lieutenant-Governor¹ may, at any time after the said works have been commenced, by an order sanction any alteration or modification of such scheme or plan suggested to him by the officer in charge of such works, if after communication with the Commissioners it shall appear to him that by such alteration or modification the general character and scope of the scheme will not be altered, nor greater expenditure incurred thereon than would be incurred in the scheme as originally sanctioned :

Power to Lieutenant-Governor to modify scheme.

and, after such sanction, such alteration or modification shall be taken to be a portion of the scheme adopted by the Commissioners, in substitution for the portion of such scheme thereby altered :

and every such alteration or modification shall be published by the Commissioners as to them shall seem fit.

24. (1) Any person who alleges that damage has been caused to his property by any scheme or works commenced or carried out under this Act may, at any time before the expiry of the three years mentioned in clause (1) of section 28 prefer to the Commissioners a claim for compensation in respect of such damage actually caused, and of all future damage likely to be caused, to such property by such scheme or works.

Claims to compensation for damage caused in carrying out scheme or works.

The Commissioners shall duly consider any such claim; and, if they are satisfied that such damage has been caused or is likely to be caused, they shall assess such compensation as to them appears fair and reasonable.

Compensation to be assessed by the Commissioners.

If such person agrees to accept the amount so assessed, the same shall be paid to him.

If he do not agree to accept such amount, the Commissioners shall make a reference to the Civil Court in the manner in which a Collector is empowered to make a reference by section 15 of the Land Acquisition Act, 1870² and the provisions of Part III of the said Act shall apply to any reference so made.

Reference to Civil Court if amount assessed be not accepted.

(2) When the persons interested in such property, to which damage has been caused as aforesaid, agree to accept the amount of compensation assessed by the Commissioners, but a dispute arises as to the apportionment of the same or any part thereof,

Reference to Civil Court where amount of compensation agreed to or settled by Court, but dispute as to its apportionment.

10 of 1870.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² These references to Act 10 of 1870 should now be construed as references to the corresponding portions of the Land Acquisition Act, 1894 (1 of 1894)—see s. 2 (3) of the latter Act, in the General Acts, 1887-97, Ed. 1909, p. 864.

(Part III.—*Expenditure and Apportionment.*—
Secs. 25-26A.)

or when the amount of compensation has been settled by the Court on a reference under clause (1) of this section, and a similar dispute arises,

the Commissioners shall refer such dispute to the decision of the Civil Court;

and the provisions of Part IV of the said Land Acquisition Act¹ shall apply to any reference so made. 10 of 1870.

Reference may in certain cases be transferred to Subordinate Judge or *Munsif* for disposal.

(3) When the amount of compensation assessed by the Commissioners does not exceed one thousand rupees, any reference made under the said clause (1) may be transferred by the principal Civil Court of original jurisdiction of the district to any Subordinate Judge in the same district; and such Subordinate Judge shall have power to hear and dispose of the same;

and any reference made under clause (2) of this section may be transferred by such principal Civil Court to any *Munsif* in the same district, and such *Munsif* shall have power to hear and dispose of the same.

PART III.

EXPENDITURE AND APPORTIONMENT.

Cost of compensation, etc., to be deemed part of expense of construction. Such expense may be defrayed by advances from the public funds.

25. All amounts paid as compensation for any lands taken for the purposes of this Act, or for damage inflicted in carrying out any scheme or works under this Act, or as salaries of officers, servants or establishments, or for surveys or valuations (whether antecedent or subsequent to the preparation of the scheme and plans), and all amounts otherwise duly expended in carrying out the purposes of this Act, shall be included in, and deemed to constitute the cost of, construction of the works, and may be defrayed by advances from the public funds as provided by section 22.

Interest to be charged on such advances. Rate of interest, and bearing of compound interest.

26. Interest shall be charged on all such advances until the same have been recovered.

26A. (1) In every case in which the charging of interest is authorized by this Act, the rate chargeable shall be four *per centum per annum*.

(2) No compound interest shall be charged in any case.

Explanation.—The interest recoverable from a tenant under section 42, clause (b), section 43, clause (b), section 44 or section 44A shall not be deemed to be "compound interest" within the meaning of this section, although it includes simple interest upon interest which has been paid by a landholder or superior tenant in pursuance of this Act.

¹ These references to Act 10 of 1870 should now be construed as references to the corresponding portions of the Land Acquisition Act, 1894 (1 of 1894)—see s. 2 (3) of the latter Act, in the General Acts, 1887-97, Ed. 1909, p. 244.

² These sections 26 and 26A were substituted for the original section 26 by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 3, in Vol. III of this Code.

of 1900.]

(Part III.—Expenditure and Apportionment.—Secs. 27-29.)

27. The officer in charge of the said works shall, until the same shall be finally completed, once in every three months make a detailed report to the Commissioners of the progress of such works and the expenditure thereupon from the day up to which the next preceding report shall have been brought down;

Reports to be made and expenditure certified.

and the Examiner of Public Works Accounts to the Government of Bengal, or some other officer authorized in that behalf by the Lieutenant-Governor, shall from time to time certify the sums advanced in accordance with the provisions of section 25, and the dates of such advances;

and every such certificate shall be final and conclusive evidence in a Civil Court, or in any proceedings under this Act, of the sums therein stated to have been advanced having been so advanced, and of the dates upon which they were respectively so advanced.

28. (1) The officer in charge of the works shall, as soon as they have been completed, certify such completion to the Commissioners;

Commissioners upon expiry of three years from completion report to classify lands benefited by the works, distinguishing between improved lands and reclaimed lands.

and the Commissioners shall, upon the expiry of three years from such completion being so certified to them, proceed to classify all the lands benefited by the works according to the degree of benefit conferred; and in such classification they shall distinguish the improved lands from the reclaimed lands.

It shall be lawful for the Commissioners at any time during such three years to make such inspections of the lands, and such surveys thereof, and otherwise to collect such information, as shall in their opinion conduce to the making of such classification and of the apportionment hereinafter mentioned.

(2) The Commissioners shall, after making such classification, proceed further to apportion the total cost of construction, together with ¹[interest] upon the improved lands and reclaimed lands, and shall draw up a statement showing the amount payable to the Collector by each landholder—

Cost of construction, with interest, to be apportioned upon the improved lands and reclaimed lands.

(a) in respect of his improved lands, if any, and

(b) in respect of his reclaimed lands, if any.

In making this apportionment the Commissioners shall, as far as may be possible, make payable in respect of each plot or field of improved land a sum not exceeding the amount of the increased capitalized value which, in the opinion of the Commissioners, has been conferred on such land by the works.

Amount payable for the improved lands not to exceed value of improvement.

29. (*Adjustment of excess or deficient payments of interest*).
Rep. by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² The word "interest" in s. 28 (2) was substituted for the words and figures "the interest mentioned in section 80" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 4, in Vol. III of this Code.

(Part III.—Expenditure and Apportionment.—Secs. 30-33.)

When the land is part of a tenure, etc., Commissioners may declare who shall be deemed liable as landholders.

Amounts made payable to be a charge upon the improved lands and reclaimed lands respectively. Secretary of State for India in Council to have a perpetual lien for their recovery. Commissioners to report apportionment.

In default of Commissioners, officer appointed by Lieutenant-Governor to make apportionment and report.

30. Whenever any land, in respect of which any sum is apportioned as payable under the provisions of section * * * 28, forms part of a tenure, and of a tenure and of an under-tenure, it shall be lawful for the Commissioners to declare whether the holders of the estate, of the tenure or of the under-tenure shall be deemed to be the landholders liable to pay to the Collector the sum apportioned as payable in respect of such land.

31. The total sum so made payable in respect of the improved lands of any one landholder, and the total sum so made payable in respect of the reclaimed lands of any one landholder with interest * * * * *¹ from the date of apportionment, * * * * *² shall be a first charge upon such improved lands and upon such reclaimed lands respectively.

Such charge shall not be avoided by the sale of such lands or of any estate, tenure or under-tenure within which they are included, for arrears of revenue or rent.

32. The Commissioners shall, so soon as conveniently may be after having apportioned the sums to be payable by the holders of the lands of any village respectively, make and publish a report describing the several lands in respect of which they have declared such sums to be payable, the names of the respective holders thereof who have been made liable to pay the same to the Collector, and the sum payable by each in respect of the same.

Every such report shall distinguish between the reclaimed lands and the improved lands, and shall classify the latter according to the extent of the improvement.

A copy of such report shall be sent through the Collector to the Commissioner of the Division, for confirmation by such Commissioner.

33. If the Commissioners shall, for the space of three months after the completion of the entire works has been certified to them as aforesaid, neglect or refuse to proceed with the apportionment of the sums payable as aforesaid, or to make such report as aforesaid,

or, for the space of two months after any report and apportionment shall have been returned to them for further consideration and revision under the provisions hereinafter contained, neglect or refuse to proceed to such further consideration and revision as is required.

the Collector may serve them with a notice requiring them to proceed as aforesaid :

¹ The figures and word "26 or," were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

² The words "upon such sums at five per centum per annum," were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

³ The words and figures "and any interest payable under section 29, and any interest payable under clause (2) of section 28, but not paid or recovered before the apportionment under section 28," were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

of 1880.]

(Part III.—Expenditure and Apportionment.—Secs. 34, 35.)

and, if for one month after service of such notice they neglect so to proceed, the Lieutenant-Governor¹ may appoint such officer or officers as to him shall seem fit, to make or consider and revise such apportionment and report, and to do all or any of the subsequent acts which the Commissioners are hereby required or empowered to do in respect of such apportionment and report :

and every apportionment and report so made or revised, and every such act so done, shall have the same force and effect as if the same had been made, revised or done by the Commissioners.

34. Whenever any apportionment and report have been made in pursuance of the provisions hereinbefore contained, the Commissioners shall cause such report to be published by affixing in every village in which any lands mentioned therein are situate a copy of so much thereof as relates to such lands, and also a like copy at the office of the Collector and of the Sub-divisional Officer, and at every *Munsif's* Court within whose jurisdiction, and at every police *thana* within the limits of which, such village, or any part thereof, is situate.

Report to be published.

The fact of such apportionment and report having been made, and such copies having been affixed, shall also be notified by beat of drum in every such village.

35. Any person who may deem himself to be aggrieved by any such apportionment may, within one month after such report has been published, prefer an objection before the Commissioners, and the Commissioners shall be bound to inquire into and decide upon such objection ;

Appeal against apportionment.

and any person who is dissatisfied with such decision may, within one month from the date of such decision, appeal to the Commissioner of the Division against such apportionment ;

and such Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published by affixing the same in the office of the Collector and of the Sub-divisional Officer and in a conspicuous place in every village, and in the Court of every *Munsif* within whose jurisdiction, and at every police-*thana* within the limits of which, any of the lands mentioned in such report are situate.

Such Commissioner shall hear such appeal and the objections thereto of all persons interested, and may confirm such apportionment, or may revise and alter the same as to him shall seem fit, or may return the same to the Commissioners for further consideration and revision :

Provided that the total sum apportioned by every apportionment and report so revised and altered, as payable in respect of all the lands improved or reclaimed by the works .

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

[Ben. Act. 6]

(Part III.—Expenditure and Apportionment.—Secs. 36, 36A.)

shall not be less than the total cost of the construction of such works within the meaning of section 25.

Every such apportionment and report, when revised or altered, shall, so far as the same has been altered, be published, and be liable to appeal, in like manner as the original apportionment and report.

The decision of the Commissioner of the Division upon any appeal under this section shall be final.

Final determination of apportionment.

36. Whenever the Commissioner of the Division shall confirm any apportionment and report, or whenever one month shall have elapsed from the publication of any report without any appeal therefrom having been preferred,

he shall pass an order¹ declaring the sums payable in respect of the lands respectively and the persons liable to pay the same to be determined, and shall cause such order to be published in such manner as to him shall seem fit.

Power to add to, or alter, declaration as to names of persons liable to pay.

36A. (1) If any order passed under section 36, so far as it declares what persons are liable to pay any sum under this Act in respect of any land, appears at any time to require revision—

- (a) by reason of the omission of the name of any co-sharer of such land, or
- (b) by reason of any change having taken place in the ownership or joint ownership of such land, or
- (c) for any other substantial reason,

the Collector may, on the application of any holder of the land or of his own motion, and after such inquiry and upon such conditions (if any) as he may think proper, add to or alter such order:

Provided that every person whose name is so added or who is materially affected by any such alteration has had an opportunity of being heard by the Collector.

(2) Any person who is dissatisfied with any addition or alteration made under sub-section (1) may, within one month after the same was made, appeal to the Commissioner of the Division.

(3) The Commissioner shall cause notice of the day fixed for the hearing of such appeal to be published in the manner prescribed by section 35; and shall, on the day so fixed, hear such appeal and all objections thereto advanced by persons interested and may confirm or revise the addition or alteration, or may remit the case to the Collector for further consideration and revision.

¹ As to the revision of past orders under s. 36, in respect of the Howrah and Rajapur Drainage Schemes, in order to reduce charges for interest and other charges, see the Bengal Drainage (Amendment) Act, 1903 (Ben. Act 2 of 1903), ss. 15 and 19, in Vol. III of this Code.

² Section 36A was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 6, in Vol. III of this Code.

(Part IV.—*Recovery of sums due to the Collector.*—
Secs. 37, 38.)

(4) The decision of the Commissioner on any such appeal shall be final.

(5) Every addition and alteration made under this section shall be published, in such manner as to the Collector may seem fit, after the expiration of one month—

(i) from the time when the addition or alteration was made,
or

(ii) if any appeal has been preferred under sub-section (2),
from the decision of the appeal;

and the addition or alteration shall take effect from the date of such publication; and proceedings may thereupon be taken under this Act, in respect of such addition or alteration, as if a new order embodying it had been made under section 36.

PART IV.

RECOVERY OF SUMS DUE TO THE COLLECTOR.

37. As soon as any apportionment has been determined as aforesaid, the Collector may cause a notice in the form in Schedule B hereto annexed to be served upon any landholder who has not paid the sum payable by him.

Collector to serve notice of apportionment, requiring payment or engagement to pay.

Such notice shall require such landholder, within one month from the date of ¹[the service thereof] upon him, to pay such sum, with interest ²[up to the day of payment,] or to enter into an engagement for the payment, by instalments extending over a period of not more than ten years, of such sum, together with interest * * * ³on all instalments remaining unpaid at the date of such payment.

38. If any landholder fails to discharge the sum made payable in respect of his improved lands or in respect of his reclaimed lands, or fails to enter into an engagement for the payment thereof as in this Act hereafter provided, or, having entered into such an engagement, fails to discharge any instalment payable thereunder, such sum or such instalment, together with interest * * * ⁴, shall be recoverable under the provisions of any law⁵ for the time being in force for the recovery of public demands.

If amount not discharged, the Collector may recover it as a public demand.

¹ The words "the service thereof," in s. 37, were substituted for the words "its service" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 7 (1), in Vol. III of this Code.

² The words "up to the day of payment," in s. 37, were substituted for the words "at the rate of five per centum per annum" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 7 (2), in Vol. III of this Code.

³ The words "at the said rate" in s. 37, were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 7 (2), and are omitted.

⁴ The words "thereupon at five per centum per annum" in s. 38, were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

⁵ As now the Bengal Public Demands Recovery Act, 1913 (Ben. Act 3 of 1913), in Vol. III of this Code.

(Part IV.—Recovery of sums due to the Collector.—

Part IVA.—Recovery of share of payments from Co-sharers.—Secs. 39-41A.)

Collector may also with sanction of Board of Revenue raise unpaid amount by leasing or mortgaging the improved or reclaimed lands.

39. If the Collector thinks it inexpedient to proceed under the provisions of section 38, or, having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue¹, raise the amount necessary to discharge the sum or instalment remaining unpaid—

- (a) by letting in perpetuity or for a term, on payment of a premium equivalent to such amount, the whole or any part of such improved lands or reclaimed lands;
- (b) by mortgaging the whole or any part of such improved lands or reclaimed lands;
- (c) by letting in farm or managing by himself or another the whole or any part of such improved lands or reclaimed lands; or
- (d) partly by one of such modes and partly by another or others of them.

For the purposes of this section, the Collector may exercise all the powers of the owner of such improved or reclaimed lands; and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

Recovery of unrealised portion of charge.

40. In case the Collector certifies that any sum payable as hereinbefore provided cannot be realized as provided by section 38 or 39, so much of such sum as shall not have been so realized shall be a charge upon any profits that may accrue from the property vested in the Collector under the provisions of section 47.

Power to repay advances.

41. Any landholder who has entered into an engagement for the repayment of any sum apportioned as aforesaid may at any time repay² to the Collector the entire amount of the principal sum which shall be then remaining due, and interest thereupon up to the day of payment; and thenceforth the said engagement shall be terminated, and all liabilities in respect thereof for principal or interest shall determine.

* PART IV A.

RECOVERY OF SHARE OF PAYMENTS FROM CO-SHARERS.

Power to recover share of payments from co-sharers.

***41A.** When any landholder has made any payment under the foregoing provisions of this Act in respect of land which

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

² As to refunding or crediting to landholders reductions to be made in past charges in respect of the Howrah and Bajapur Drainage Schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), ss. 16 and 19, in Vol. III of this Code.

³ Part IV A was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 6, in Vol. III of this Code.

⁴ As to the application of s. 41 A for the recovery of money paid for the maintenance of works, see s. 48 (1), *post*, p. 511.

As to the application of s. 41 A to certain claims which had already accrued in respect of the Howrah and Bajapur Drainage Scheme, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 14, in Vol. III of this Code.

of 1880.]

(Part V.—*Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them.*—Sec. 42.)

he holds jointly with other persons, and such payment exceeds the amount which is proportionate to his individual interest in the land, he may—

- (a) recover from his co-sharers, respectively, such contributions towards such payment as are proportionate to their individual interests in the land, either—
 - (i) in the same manner in which arrears of rent are recoverable under the Bengal Tenancy Act, 1885,¹ and under similar penalties, or,
 - (ii) if such co-sharers have been declared by any order passed under section 36 or revised under section 36 A to be liable to pay—upon application to the Collector as hereinafter provided; or
- (b) take credit for such contributions as aforesaid in any adjustment of accounts between himself and his co-sharers.

PART V.

RECOVERY BY LANDHOLDERS OR SUPERIOR TENANTS OF THE COST OF THE WORKS FROM PERSONS HOLDING LAND UNDER THEM.

42. Every landholder who has been charged with any sum by a report published as aforesaid may, after he has paid or engaged to pay the same,—

Proprietor
may recover
from
subordinate
tenants.

(a) proceed under any law for the time being in force to enhance the rents of any person holding immediately from him any land the productive powers of which have been increased by any works carried out under this Act: provided that any such person may at his option elect to pay under clause (b) of this section; or

(b) recover such sum or any part thereof, according to the proportions hereinafter provided, with interest * * * from the date of payment by him of any portion thereof, from the persons holding immediately from him lands in respect of which such sum has been declared payable, and which have been benefited by any scheme or works carried out under this Act.

(c) The sum recoverable by such landholder from each such person under clause (b) in respect of the lands of each class shall bear the same proportion to the sum charged upon such

¹ Printed in Vol. I of this Code.

² The words "at the rate of five per centum per annum," in s. 42 (b), were repealed by the Bengal Drainage (Amendment) Act, 1902 (Bd. Act-9 of 1902) s. 5, and are omitted.

(Part V.—Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them.—Secs. 43, 44.)

landholder in respect of all lands of that class as the area of the lands of that class which are held by such person bears to the area of the lands of the same class in respect of which the landholder has been charged. No person from whom a landholder is authorized to recover any sum under this section shall be liable to pay in any one year more than one-tenth part of the total sum so recoverable from him, and no person shall be liable to pay in one year more than the increased annual value of the lands in respect of which the payment is made.

Recovery by
superior
tenant.

43. Any superior tenant, who has made any payment to a landholder under the provisions of clause (b) of section 42, may—

- (a) proceed under any law for the time being in force to enhance the rents of any person holding directly from him lands the productive powers of which have been increased by any works carried out under this Act; provided that any such person may at his option elect to pay under clause (b) of this section; or
- (b) recover the sum or part of the sum which has been so paid by him according to the proportions section 42, to the rules laid down in clause (c) of and subject with interest . . . ¹ from the date of payment by him of any portion thereof, from the persons holding directly from him lands in respect of which the payment has been made, and which have been benefited by any scheme or works carried out under this Act.

Mode and
time of pay-
ment.

44. (1) The sum payable to a landholder or superior tenant in any one year under clause (b) of section 42 or under clause (b) of section 43 shall be payable by equal instalments upon the days appointed for the payment to such landholder or superior tenant of the rent of the lands concerned, and shall be recoverable as if the same were an arrear of rent.

Provision in
case of dispute
as to the
amount to be
paid.

(2) If such landholder or superior tenant and any person holding lands directly from him cannot agree as to the amount which such person shall pay, such landholder or superior tenant may serve such person, through the Collector, with a notice setting forth the amount which he claims, and requiring such person, within one month after the service of such notice, to pay the amount claimed or enter into an engagement for the payment thereof by instalments extending over a period of not more than ten years, or appear before the Collector and object.

¹ The words "at the rate of five per centum per annum," in s. 43 (b), were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 3 of 1902), s. 5, and are omitted.

of 1902.]

(Part V.—*Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them.*—*Sec. 44A.*)

(3) If such person do not within the said period of one month appear and object, the amount set forth in such notice shall be recoverable, with interest * * *

Collector to decide objection.

If such person appear and object, the Collector shall dispose of such objection, and his decision shall be final.

The Collector may direct that any sum of money payable under his decision, together with any cost¹ awarded by him, be paid by instalments extending over a period of not more than ten years.

The provisions of clause (1) of this section shall apply to every sum payable according to an order of the Collector passed under this section.

44A. (1) If any landholder or superior tenant has made any payment under the foregoing provisions of this Act in respect of lands which are or were held by tenants immediately from him, and which have been benefited by any scheme or works carried out under this Act,

Recovery, under the certificate procedure, of payments made in respect of land held by tenants

and if he has not enhanced the rent of such tenants under section 42, clause (a), or section 43, clause (a), or recovered under section 42, clause (b), section 43, clause (b), or section 44 the sums due to him,

he may, upon application to the Collector as hereinafter provided, but subject to the provisions of sub-section (1) of section 44 as to instalments, recover from such tenants, such sums as he may be entitled to according to the proportion and under the rules laid down in clause (c) of section 42, with interest from the date of such payment.

(2) An application in respect of a payment may be made under this section by a landholder who was declared by an order passed under section 36 to be liable to make such payment, although his name has been removed, by an order made under section 36A from the list of persons declared liable to make payments.

(3) If any tenants referred to in sub-section (1) have transferred their tenancies, the sums referred to in that sub-section may be recovered thereunder—

- (a) from the said tenants for the period during which they occupied the benefited land since the carrying out of the said scheme or works, or
- (b) from the tenants in possession.

¹ The words "at five per centum per annum," in s. 44 (3), were repealed by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 5, and are omitted.

² *Sic. Read costs.*

³ Section 44A was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 9, in Vol. III of this Code.

As to the application of s. 44A for the recovery of money paid for the maintenance of works, see s. 48 (1), *post*, p. 511.

As to the application of s. 44A to certain claims which had already accrued in respect of the Howrah and Bajapur Drainage Schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 14, in Vol. III of this Code.

(Part V.—*Recovery by Landholders or Superior Tenants of the cost of the works from persons holding land under them.*—
Part VI.—*Miscellaneous.*—Secs. 44B-47.)

Bar to recovery of money from tenants in certain cases.

¹**44B.** Notwithstanding anything hereinbefore contained, no sum shall be recoverable under section 42, clause (b), section 43, clause (b), section 44 or section 44A, in respect of any lands which have been benefited by any scheme or works carried out under this Act, when, in consequence of such scheme or works—

- (a) the rent of such lands has been increased, or
- (b) rent has for the first time been imposed on such lands.

Proviso.

45. No person from whom any sum has been recovered under clause (b) of section 42 or under clause (b) of section 43² [or under section 44A] shall be subject to any claim for enhanced rent on account of the benefit caused by the works to his lands.

PART VI.

MISCELLANEOUS.

Drainage works to be subject to the laws relating to embankments.

46. All outlets and water-channels, natural or artificial, which shall be altered, enlarged, excavated or cut under the provisions of this Act, and the construction and maintenance of embankments and of dams and works therein or connected therewith, shall, save as hereinafter provided, be subject to the law³ for the time being in force regulating the construction and maintenance of public embankments and public rivers, channels and outlets.

Lands and works to be vested in Collector on behalf of Secretary of State.

47. All lands which are taken under the provisions of this Act for the purpose of the construction of works therein or thereon, and all works constructed under the provisions of this Act, as well as all outlets, water-channels, embankments and dams so constructed, altered, enlarged, excavated or cut shall be vested in the Collector of the district for the time being, on behalf of the Secretary of State for India, in order to effectuate and maintain the objects of this Act;

and, to assist the Collector in the management of the same, the Lieutenant-Governor⁴ may appoint, or authorize the election by the landholders aforesaid of, a Committee consisting of not

¹ Section 44B was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902) s. 9, in Vol. III of this Code.

² These words and figures in square brackets in s. 45 were inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 10, in Vol. III of this Code.

³ As to refunding or crediting to tenants reductions to be made in past charges in respect of the Howrah and Rajapur Drainage Schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), ss. 17 to 19, in Vol. III of this Code.

⁴ Section 91 of the Bengal Embankment Act 1882 (Ben. Act 2 of 1882, post, p. 661), declares nothing in that Act shall apply to any embankment, land or water-course which is under the operation of the present Act.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

of 1902.]

(Part VI.—Miscellaneous.—Sec. 48.)

less than four or more than six persons, being themselves holders of the lands reclaimed or improved.

48. (1) The expense of keeping in efficient order and repair any improvements or works effected under this Act shall be charged to the profits from the property vested in the Collector under section 47;

Cost of maintenance of works.

and, if such profits shall not suffice, the balance shall be paid to the Collector in the proportions of the original contribution by the holders for the time being of the land¹ which have been benefited by such works;

and all sums payable to the Collector under the provisions of this section shall be recoverable in the manner provided by section 38, or in the manner provided by section 39;

and every proprietor or other person who has paid any such sum may recover the same, or any part of the same, in the proportion and subject to the rules laid down in section 42 or 43 as the case may be, ²[and for that purpose the procedure prescribed by section 41A or section 41A and sections 51B and 51C shall be applicable].

(2) Any such amount as is specified in section 25 which, from oversight or other cause, has been omitted from the apportionment and report made under section 32 or section 33, may be charged and recovered under the provisions of clause (1) of this section.

Recovery of items omitted from apportionment.

(3) If, on the first day of January next before the last instalments payable under the provisions of section 36 are due, there is, after providing for the expense of keeping in efficient order and repair the improvements and works executed under this Act, a surplus of the profits from the property vested in the Collector under section 47,

Surplus profits from property vested in Collector under section 47 to be appropriated to payment of debt to Government.

such surplus, or as much thereof as will suffice, shall be appropriated to the liquidation of the said last instalments.

Any landholder who has paid any such instalment in advance under the provisions of section 41 shall be entitled to a refund in proportion with interest at ³[four] *per centum per annum*.

(4) The Lieutenant-Governor⁴ may at any time, in his discretion, direct that the total average annual expense, which over and above such profits as aforesaid is necessary to keep such improvements and works in efficient order and repair, be estimated, and that there be levied from such landholders, in lieu of all future contributions to the maintenance of such improvements and works such amount as, being invested in Government securities at the current rate of interest, shall yield

Cost of maintenance may be capitalized, and the capitalized amount levied.

¹ *Sic. Read lands.*

² These words and figures in square brackets, in s. 48 (1), were added by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 11 (1), in Vol. III of this Code.

³ The word "four," in s. 48 (3), was substituted for the word "five" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 11 (2), in Vol. III of this Code.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part VI.—Miscellaneous.—Secs. 49-51A.)

a sum equal to such average annual expense. The provisions of sections 31, 38 and 39 shall apply to such capitalized amount.

Powers for taking evidence.

49. The Commissioners, the Commissioner of the Division, and every officer appointed by the Lieutenant-Governor¹ under section 33, shall have the powers conferred on Civil Courts by the Code of Civil Procedure² for compelling the attendance of witnesses and the production of evidence, and for examining witnesses in any inquiry or appeal which they or he may be empowered to make or entertain under the provisions of this Act.

Rent-free lands may be deemed subordinate tenures.

50. Any land held free of rent or revenue, being less than one hundred standard *bighas* in extent, and not being a property entered on the Collector's general register of revenue-free lands, may, for the purposes of this Act, be deemed to form a tenure or under-tenure held immediately from some landholder; and the Commissioners shall determine who shall be deemed to be the landholder in respect of such tenure:

Provided that any holder of such land, who may deposit the cost of survey of his land at a rate to be approved by the Commissioners and calculated on the area claimed by him, shall be entitled to be deemed a landholder, in respect of such lands, within the meaning of this Act.

Sum payable by holder of rent-free land to be payable in two instalments.

51. Wherever any land, as mentioned in the last preceding section, shall be deemed to form a tenure or under-tenure held immediately from a landholder as therein provided, every sum payable to the landholder in respect of such land in any one year shall be payable in two equal instalments on such dates as the Commissioner of the Division may fix.

Such Commissioner shall cause due notice to be given in the villages concerned of the dates so fixed by him.

Recovery, under the certificate procedure, of payments made in respect of land held free of rent or revenue.

51A. Any person who has been determined under section 50 to be the landholder in respect of land, held free of rent or revenue, which has benefited by any scheme or works carried out under this Act, and who has made any payment under the foregoing provisions of this Act in respect of such land, may, upon application to the Collector as hereinafter provided, but subject to the provisions of section 51, recover the amount of

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² Act 10 of 1877 was repealed by Act 14 of 1882 which has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to the latter Code—see s. 168 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

³ Sections 51A and 51B were inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 12, in Vol. III of this Code.

As to the application of ss. 51A and 51B to certain claims which had already accrued in respect of the Howrah and Rajapur Drainage Schemes, see s. 14 of the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), in Vol. III of this Code.

As to refunding or crediting to tenants reductions to be made in past charges in respect of those schemes, see ss. 17 to 19 of the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), in Vol. III of this Code.

As to the application of s. 51B for the recovery of money paid for the maintenance of works, see s. 46 (2) ante, p. 511.

of 1882.]

(Part VI.—*Miscellaneous*.—Sec. 51B.)

such payment from any person holding such land immediately below him.

¹51B. (1) Every application to the Collector under section 41A for the recovery of contributions from co-sharers towards a payment made by a landholder under the foregoing provisions of this Act must—

Further provisions as to applications under section 41A, 44A or 51A.

- (a) be made within six months after such payment was made, and
- (b) specify the amount of such payment, and the amount of such contributions due from each co-sharer.

(2) Every application to the Collector under section 44A or section 51A for the recovery of sums due, from tenants of, or persons holding lands benefited by any scheme or works carried out under this Act, on account of any payment made by the applicant under the foregoing provisions of this Act must—

- (c) be made within six months after such sums became due,
- (d) specify the amount of such payment, and the date on which it was made,
- (e) specify the amount of such sums due from each tenant or person holding land, and the date on which it became due, and
- (f) be accompanied by a declaration, signed by the applicant and stating—
 - (i) that he has not, on account of the said scheme or works, enhanced the rent, if any, payable in respect of the said lands or any of them, and
 - (ii) that he has not taken from such tenants or persons holding land, or any of them, any premium on account of such scheme or works.

(3) Every application under section 41A, section 44A or section 51A must—

- (g) be signed and verified in the manner provided by sections 51 and 52 of the Code of Civil Procedure² for the signature and verification of plaints,

14 of 1882.

¹ See footnote * on page 512, ante.

² Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to rules 14 and 15 in Order VI in Sch. I to the latter Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Part VI.—Miscellaneous.—Sec. 51C.)

- (h) be accompanied by a court-fee of eight annas, and
 (j) request the Collector to make a certificate authorizing the recovery of the said contributions or sums, as the case may be, under the Public Demands Recovery Act, 1895¹.

Ben. Act 1 of 1895.

(4) Every declaration made under clause (f) shall, for the purposes of section 199² of the Indian Penal Code, be deemed to be a declaration which the Collector is authorized by law to receive as evidence. 45 of 1860.

(5) If the Collector at any time has reason to believe that any declaration accompanying an application as aforesaid, or any part thereof, is false, he may reject the application and leave the applicant to pursue his claim in a Civil Court.

Grant of
certificate,
and effect
thereof.

³ 51C. (1) Upon receiving any such application, the Collector may, if he thinks fit, make a certificate as aforesaid.

(2) Every such certificate shall have the same effect as a certificate made under section 7 of the said Public Demands Recovery Act, 1895¹; and the same notices shall be issued, and the same proceedings may be taken, with respect thereto, by the Certificate Officer, as in the case of a certificate made under that section.

Ben. Act 1 of 1895.

(3) The person in whose favour any such certificate is made shall be deemed to be the decree-holder for the amount mentioned in the certificate, and the person against whom the certificate is made shall be deemed to be the judgment-debtor for the said amount; and all proceedings taken by the Certificate Officer for the recovery of such amount shall be taken at the instance of the first-mentioned person, and at his cost, and on his responsibility, and not otherwise.

(4) If any person against whom any such certificate is made objects that the contributions or sums claimed by the person who applied for the certificate, are not legally due, or exceed the sums which the applicant could recover from him in a Civil Court as being payable in respect of his individual interest in the land, and if the Certificate Officer considers there is probable ground for such objection, the Certificate Officer may modify the certificate or, if he thinks fit, cancel the certificate and leave the applicant to pursue his claim in a Civil Court.

¹ Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), and this reference should now be construed as a reference to the corresponding portion of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

² Printed in the General Acts, 1834-67, Ed. 1909, p. 298.

³ Section 51C was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 12, in Vol. III of this Code.

⁴ As to the application of the section for the recovery of money paid for the maintenance of works, see s. 48 (f), *ante*, p. 511.

⁵ As to the application to certain claims which had already accrued in respect of the Howrah and Rajapur Drainage Schemes, see the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 14, in Vol. III of this Code.

of 1880.]

(Part VI.—Miscellaneous.—Secs. 51D-51J.)

51D. (1) If, in any area benefited by any scheme or works carried out under this Act, there has occurred in any year a total or serious failure of crops, then, notwithstanding anything hereinbefore contained, the Collector may,

Power of Collector to suspend recovery of due in case of failure of crops

after such inquiry (if any) as he deems necessary, and with the previous sanction of the Commissioner of the Division,

by written order, suspend for the whole or any part of that year, the recovery of all or any sums which are recoverable from landholders and tenants, respectively, in respect of such area under the foregoing provisions of this Act.

(2) Every such order shall be published in the manner prescribed in section 12 for the publication of the notification referred to in that section.

Ben. Act 1 of 1895.

(3) When any such order has been duly published, all proceedings under the Public Demands Recovery Act 1895,¹ and all suits by landholders or tenants, for the recovery of any sums to which such order relates, shall be stayed during the period specified in the order.

51E. An order duly made and published under section 51D shall not be questioned in any Civil or Revenue Court.

Bar to jurisdiction of Courts in respect of order of suspension. Procedure when landholder or tenant collects dues during period of suspension.

51F. If any landholder or tenant, during any period specified in an order duly made and published under section 51D, collects any sums payable to him to which such order relates, then all sums payable by him to which such order relates may be recovered from him as if such order had not been made.

51G. When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, then, if such sums form part of a sum which is, in pursuance of this Act, payable by instalments, the period remaining for the payment of such instalments shall be extended by the period, specified in such order, and no more than one instalment of the sum remaining due shall be payable in any succeeding year.

Extension of period for payment of instalments when order of suspension made.

51H. When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, such period shall be excluded in computing the period of limitation prescribed for a suit or application for the recovery of such sums.

Extension of period of limitation, when order of suspension made.

51J. When an order has been duly made and published under section 51D, suspending the recovery of any sums for any period, then, notwithstanding anything hereinbefore

Interest not to accrue during period of suspension.

¹ Section 51D was inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 12, in Vol. III of this Code.

² Ben. Act 1 of 1895 has been repealed and re-enacted by the Bengal Public Demands Recovery Act, 1918 (Ben. Act 3 of 1913), and this reference should now be construed as a reference to the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

³ Sections 51E to 51J were inserted by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 12, in Vol. III of this Code.

(Part VI.—Miscellaneous.—Secs. 52-56.)

contained, no interest shall accrue on such sums during such period.

Service of
notices.

52. All notices under this Act required to be served, may be served by delivering the same to the person to be served or by posting the same upon the door of his dwelling-house, or, if such person cannot be found and his dwelling-house is not known, then by posting the same on some conspicuous part of the land to which such notice relates, and copies thereof at the *Munsif's* Court within whose jurisdiction, and the police-*thana* within the limits of which, such land is situate.

Proceedings
not to be
invalidated
by formal
errors.

53. No proceeding under this Act shall be defeated or invalidated by reason of any defect in the number or property of assenting landholders, nor by any defect or omission in the publication or service of any notification, notice or order, unless material injury is done to any person by such defect or omission;

and every order and report of the Commissioners, of the Collector and of any officer appointed by the Lieutenant-Governor¹ under section 33 shall be conclusive evidence that all notifications and notices hereby required as preliminary thereto had been duly published and served, and that all other preliminaries thereunto had been duly performed, and, save as is hereinbefore provided, shall be final and conclusive.

Portion of
scheme may
be deemed
separate
scheme.

54. The Lieutenant-Governor¹ may, by an order in writing, direct that any portion of a scheme adopted and ordered to be executed under this Act shall, for the purposes of this Act or for any such purposes, be deemed to be a separate scheme.

Lieutenant-
Governor
may empower
other person
to act for
Collector.

55. The Lieutenant-Governor¹ may specially empower² any person to do all or any acts, to discharge all or any functions and to exercise all or any powers which may be done, discharged or exercised by a Collector under this Act;

and, on any person being so specially empowered, such person may do all or any of such acts, discharge all or any of such functions, and exercise all or any of such powers, and such person shall be deemed to be the Collector for the purposes of the scheme in respect of which he is so especially empowered.

Collector may
delegate
authority.

56. The Collector may, with the sanction of the Commissioner of the Division, delegate to any Deputy, Assistant or Sub-Deputy Collector, or to any similar officer, the performance of any acts and the discharge of any functions which the said Collector may perform or discharge under this Act;

and upon such delegation such Deputy Collector or other officer may do any such acts and discharge any such functions,

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² For an order made under section 55 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I. Pt. VI.

of 1880.]

(Part VI.—Miscellaneous.—Part VII.—Special provisions for works carried out under Bengal Act 5 of 1871.—Secs. 57-63.)

and may exercise any powers for the performance of the same which the Collector may exercise under this Act :

Provided that all acts done, functions discharged and powers exercised by such officer shall be done, discharged or exercised subject to the control and supervision of the Collector.

57. Notwithstanding anything hereinbefore contained, all the proceedings of the Commissioners and of the Collector under this Act shall be subject to the general control and supervision of the Commissioner of the Division.

Control of Commissioner.

58. The Lieutenant-Governor¹ may, from time to time, make rules² to regulate the following matters :—

Power to make, alter and cancel rules.

- (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
- (b) the person by whom, ³ the time, place or manner at or in which anything for the doing of which provision is made in this Act shall be done;
- (c) and generally to carry out the provisions in this Act.

The Lieutenant-Governor¹ may from time to time alter or cancel any rules so made.

Such rules, alterations and cancelment shall be published in the Calcutta Gazette, and shall thereupon have the force of law.

Publication of rules.

PART VII.

SPECIAL PROVISIONS FOR WORKS CARRIED OUT UNDER BENGAL ACT 5 OF 1871.⁴

59. The following portions of this Act shall apply to any scheme or works carried out under the provisions of Bengal Act 5 of 1871⁴, that is to say :—

Portions of this Act applicable to works carried out under Bengal Act 5 of 1871.

- (a) as to the method of realizing sums due on account of the cost of the works—sections 31, 38, 39 and 40;
- (b) as to the recovery by landholders or superior tenants of the cost of the works from persons holding land under them—Part V;
- (c) as to other matters—Part VI.

60 to 63. (*Revision of apportionment of cost of scheme or works carried out under Bengal Act 5 of 1871; Commissioners*

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For rules made under section 58, for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ *Sic.* Read and the time.

⁴ Ben. Act 5 of 1871 was repealed by this Act—see s. 3, ante, p. 491.

(Schedule A.)

to be guided in making such revision by certain provisions of this Act; Power of Commissioners to increase or reduce apportionment; Appeal; Finality of revised apportionment; Realization of sums due thereunder). Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

SCHEDULE A (referred to in section 12).

BENGAL DRAINAGE ACT, 1880.

To all whom it may concern.

TAKE notice that it is proposed to drain and improve certain lands in the village of , *pargana* . Plans and provisional estimates of the works proposed are now lodged in and may be inspected by any person interested on any of the days and at any of the times specified below till the day of next. (*Here specify the days and hours at which the plans and the estimates will be open to inspection.*)

All proprietors of estates paying revenue direct to Government of which any lands may be affected by the proposed drainage and improvement,

all owners of revenue-free lands borne on the Collector's general register of revenue-free lands, which may be so affected,

all persons having permanent rent-paying interests in tenures, under-tenures, or lands extending to not less than one hundred standard *bighas* to be so affected,

and all persons having permanent rent-free interest in tenures, under-tenures and lands to be so affected,

are hereby called upon to inspect the said plans and estimates.

Those who wish the works to be carried out and are willing to bear their proportion of the cost thereof are requested to send to the Drainage Commissioners their assent in writing, signifying therein, so far as possible, the nature and extent of their interest in such land, on or before the day of 18 .

Those who have any objection to the execution of the said works are required to send in their objection in writing to the said Commissioners on or before the said day.

All persons who are hereby called upon to give their assent or express their objections in writing are warned that under the law the Commissioners are not bound to recognize any such assent or objection unless the person making the same specifies the extent and portion of the land which he holds and the tenure or interest which he has in the same.

*Collector, for the Drainage
Commissioners.*

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(Schedule B.)

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BENGAL DRAINAGE ACT, 1880.

To

Take notice that the Drainage Commissioners have apportioned against you the sum of _____ as your contribution in respect of the lands of _____, and that you are hereby required, within one month from the date of the service of this notice, to pay to me the said sum of Rs. _____, together with interest at the rate of ¹[four] *per centum per annum* from the _____ day of _____, or to enter into an engagement for the payment of the same by instalments extending over a period of not more than ten years ²[together with simple interest, at the rate of four *per centum per annum*, on all instalments remaining unpaid at the date of each such payment].

¹The word "four" in Schedule B was substituted for the word "five" by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 13 (1), in Vol. III of the Code.

²These words in square brackets in Schedule B were added by the Bengal Drainage (Amendment) Act, 1902 (Ben. Act 2 of 1902), s. 13 (2), in Vol. III of this Code.

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(THE CESS ACT, 1880).

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BENGAL ACT 9 OF 1880

(THE CESS ACT, 1880).¹

(13th October, 1880.)

An Act to amend and consolidate the Law relating to Rating for the Construction, Charges and Maintenance of District Communications and other Works of Public Utility, and of Provincial Public Works.

Whereas it is expedient to amend and consolidate the law relating to rating for the construction, charges and maintenance of district roads and other means of communication, and of provincial public works, within the territories administered by the Lieutenant-Governor of Bengal,² and to the levy of a road cess and a public works cess on immovable property situate therein, and to the constitution of local committees for the management of the proceeds of the said road cess, and also to provide for the construction and maintenance of other works of public utility out of the proceeds of the said road cess; It is hereby enacted as follows:—

Preamble.

PRELIMINARY.

1. This Act may be called the Cess Act, 1880;

Short title.

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

¹ LEGISLATIVE PAPERS.—For Proceedings in Council, see Calcutta Gazette, 1879, Supplement, p. 1508; *ibid.*, 1880, Supplement, pp. 46, 291, 323, 379, 406 and 948.

LOCAL EXTENT.—This Act was passed for the former Province of Bengal (see the preamble) and took effect from its commencement in all districts which are now comprised in the Presidency of Fort William in Bengal, except the Chittagong Hill-tracts (see section 2 and footnote, *post*, p. 530). But the Act does not affect immovable property in Calcutta or in certain Provincial Municipalities (see section 2, *post*, p. 530), and the Governor in Council is empowered to exempt any district or part of a district, or any estate or tenure, from the operation of the Act or from the operation of so much of the Act as relates to the road cess or the public works cess (see *ibid.*).

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

LOCAL REPEALS AND AMENDMENTS.—Section 2 of the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885, printed, *post*, p. 908), repeals and amends a number of sections (indicated *post*) of the present Act, in all districts in Bengal (as now constituted) except the Darjeeling district.

ANNOTATED REPRINT.—For an annotated reprint of this Act, with rules and orders issued by the Bengal Board of Revenue under, or with reference to, the Act, see the Bengal Cess Manual, 1911.

AMALGAMATION OF CESS.—The rate imposed under the Bengal Sanitary Drainage Act, 1895 (Ben. Act 8 of 1895), is collected with the Road Cess imposed under the present Act—see ss. 21 and 22 of the Act of 1895, in Vol. III of this Code.

² This includes the present Presidency of Fort William in Bengal and other territory.

(Preliminary.—Secs. 2, 3.)

2. This Act shall take effect at once in every district¹ and part of a district in which Bengal Act 10 of 1871² (*an Act to provide for local rating for the construction and maintenance of roads and other means of communication*) and Bengal Act 2 of 1877³ (*an Act to provide for the levy of a cess for the construction, charges and maintenance of provincial public works*) may be in force on the date of the commencement of this Act.

[The Lieutenant-Governor may, by notification, in the Calcutta Gazette, extend its provisions to any other district or part of a district situate in the territories for the time being administered by him; and this Act shall take effect accordingly therein from the date specified in such notification:]

Provided.

Provided that nothing herein contained shall be deemed to affect any immovable property within the limits of the ordinary original jurisdiction of the High Court of Judicature at Fort William in Bengal, or within the limits of any first or second class municipality under the Bengal Municipal Act, 1876.³

Ben. Act 5 of 1876.

Power to exempt districts from operation of Act.

The Lieutenant-Governor⁴ may, by notification⁵ in the Calcutta Gazette, exempt any district or part of a district, or any estate or tenure, from the operation of this Act, or from the operation of so much thereof as relates to the road cess, or as relates to the public works cess, and may at any time, by a similar notification, revoke such exemption.

Repeal of District Road Cess Act, 1871, and Provincial Public Works Act, 1877.

3. The said Bengal Act 10 of 1871 and the said Bengal Act 2 of 1877 are hereby repealed; but this repeal shall not affect the past operation of such Acts or anything duly done or suffered, or any right, privilege, obligation or liability acquired, accrued or incurred thereunder;

and all rules, orders, appointments and valuations in force at the commencement of this Act which were made under the said Acts shall, so far as they are consistent with this Act, be deemed to have been made under this Act;

and all cesses which were imposed under the said Acts shall be deemed to have been imposed under this Act, and every

¹ These comprise all districts (except the Chittagong Hill-tracts) which now form the Presidency of Fort William in Bengal, namely:—

BURDWAN DIVISION—
Bankura, Birbhum, Burdwan, Hooghly
(including Howrah) and Midnapur.
CHITTAGONG DIVISION—
Chittagong, Noakhali and Tippera.
DACCA DIVISION—
Bakerganj, Dacca, Faridpur and Mymensingh.

PRESIDENCY DIVISION—
Jessore, Khulna (this district was, in 1880, part of the Jessore, and the 24 Parganas Districts), Murshidabad, Nadia and the 24 Parganas.
RAJSHAH DIVISION—
Bogra, Darjeeling, Dinajpur, Jalpaiguri, Malda, Pabna, Rajshahi and Rangpur.

² Ben. Acts 10 of 1871 and 2 of 1877 have been repealed by s. 3 of the present Act.

³ Ben. Act 5 of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), and this reference should now be taken to be made to that Act—see s. 2 thereof, *post*, p. 710.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁵ For a list of notifications issued under this paragraph of s. 3 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

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(Preliminary.—Sec. 1.)

sum due to the Collector in respect of arrears of cess, of expenses incurred, of fees or costs payable, of notices served or of fines imposed under either of the said Acts shall be deemed to be due on such accounts under this Act;

and all cesses so imposed and every sum so due may be levied as herein provided.

4. In this Act, unless there be something repugnant in the subject or context,—

Interpretation-clause.

annual
value of
land, etc.:

1. "annual value of any land, estate or tenure" means the total ¹rent which is payable, or, if no ²rent is actually payable, would, on a reasonable assessment, be payable, during the year by all the cultivating raiyats of such land, estate or tenure, or by other persons in the actual use and occupation thereof:

2. "annual value of any land, estate or tenure" means the total *revenue* or rent which is payable, or, if no *revenue* or rent is actually payable, would, on a reasonable assessment, be payable, during the year by all the cultivating raiyats of such land, estate or tenure, or by other persons in the actual use and occupation thereof:

"Annual
value of
land," etc.:

³ *Explanation.*—For the purposes of the foregoing definition, whatever is lawfully payable or deliverable, or would, on a reasonable assessment, be lawfully payable or deliverable, in money or in kind, directly to the Government,—

(a) by raiyats cultivating land in a Government estate—on account of the use or occupation of the land, or

(b) by other persons in the actual use and occupation of land in such an estate,

shall be deemed to be "rent":

"Commissioner" means the Commissioner of the Division:

"Commis-
sioner";
"Cultivating
raiayat":

"cultivating raiyat" means a person cultivating land and paying rent therefor not exceeding one hundred rupees *per annum*:

Explanation.—When rent is payable in kind, the money value thereof shall, for the purposes of this Act, be taken to be the annual value of the landlord's share of the crop calculated on an average of the three years next preceeding any valuation or re-valuation under this Act:

"district" means the local area to which a Collector is appointed, and no lands situate beyond the limits of such local

"District":

¹ This definition is in force in this form in Western Bengal.
The differences in the definition as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.
² This definition is in force, in this form in Eastern Bengal.
³ The words "revenue or" were repealed, in Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 3 (1), and are omitted.
⁴ This *Explanation* applies only to Western Bengal. It was added by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 3 (2), in Vol. III of this Code.

(Preliminary—Sec. 4.)

area shall be deemed to form part of a district by reason of their forming part of an estate paying revenue to the Collector thereof:

"Estate": ¹ "estate" means—

- (1) land included under one entry in the general registers of revenue-paying lands and of revenue-free lands prepared and maintained by the Collector of a district under the Land Registration Act, 1876,² or any similar law for the time being in force;
- (2) any land, other than the holding of a cultivating *raiyat*, the revenue or rent of which may be payable directly to the Collector or any person specially appointed by him to collect the same;
- (3) any land acquired under any rules issued by, or under authority of, Government for the sale, grant, lease or clearance of waste-lands:

Ben. Act 7 of 1876.

"Holder of an estate or tenure":

"holder of an estate or tenure" means all or any of the holders thereof, and, where two or more persons are jointly holders thereof, they shall be jointly and severally liable under this Act:

"Holding":

"holding" means the land held by a cultivating *raiyat*:

"Immovable property":

"immovable property" includes lands and all benefits to arise out of land and things attached to the earth, or permanently fastened to anything which is attached to the earth, but does not include crops of any kind, or houses, shops or other buildings:

"Land":

"land" means land which is cultivated, uncultivated or covered with water, and does not include houses or buildings:

"Part,"
"Chapter"
and "section":

"Part," "Chapter" and "section" mean respectively a Part, Chapter and section of this Act:

"Schedule":

"Schedule" means a schedule to this Act annexed, and every such schedule shall be read as part of this Act:

"Tenure":

¹ "tenure" includes every interest in land, whether rent-paying or not save and except an estate as above defined, and save and except the interest of a cultivating *raiyat*:

"The Collector":

"the Collector" includes any person specially invested with the powers of a Collector for the purposes of this Act, and means—

i—when used in reference to revenue-paying estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose revenue-roll such estates are borne:

¹ For power to direct that certain land shall be deemed to be a "tenure" and not an "estate," see s. 40 A, post, p. 552.

² Printed ante, page 245.

of 1880.]

(Preliminary—Sec. 4.)

ii—when used in reference to revenue-free estates and lands comprised therein, to all proceedings connected therewith and to the assessment and levy of cesses in respect thereof,

the Collector or other similar officer on whose general register of revenue-free lands¹ such estates are borne :

“the Collector of the district” includes any person specially invested with the powers of a Collector for the purposes of this Act, and means the officer in charge of the revenue-administration of a district :

¹ “The Collector or of the district” :

The Settlement Officer”

¹ “the Settlement Officer” means the Revenue-officer appointed by the Local Government, under the designation of Settlement Officer or Assistant Settlement Officer, for the purpose of preparing or revising records-of-rights, under Chapter X² of the Bengal Tenancy Act, 1885, or any other law for the time being in force, in respect of the lands in any local area, estate or tenure, or part thereof,

and includes any officer appointed by the Local Government to maintain records-of-rights so prepared or revised.

District Council” :

³ “District Board” means the Board constituted under the provisions of the Bengal Local Self-Government Act of 1885.⁴

“the Committee” means the District Road Committee of any district :

⁴ “The Committee” :

en. Act 3 of 1885.

District Council”

² “District Fund” means the fund formed under section 52⁵ of the Bengal Local Self-Government Act of 1885.

en. Act 3 of 1885.

“year” means the cess year as determined by the Lieutenant-Governor⁶ under section 11.

¹ This definition of “the Settlement Officer” applies only to Western Bengal. It was inserted by the Bengal Cess (Amendment) Act, 1910 (Ben. Act, 4 of 1910), s. 2 (3), in Vol. III of this Code.

² Printed in Vol. I of this Code.

³ These definitions of “District Board” and “District Fund” were substituted for the definition of “the Committee” by the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 3, and apply to all areas in Bengal in which the present Act is in force, except the Darjeeling district.

⁴ This definition of “the Committee” applies only to the Darjeeling district.

⁵ Printed *post*, page 496.

⁶ Now the Governor in Council of Fort William in Bengal—*see* the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part I.—Chapter I.—Imposition and Application of the
Cesses.—Secs. 5-9.)

Part I.

CHAPTER I.

IMPOSITION AND APPLICATION OF THE CESSES.

All immov-
able property
to be liable to
a road cess
and public
works cess.

Сеннен до в
то
be assessed.

5. From and after the commencement of this Act in any district or part of a district, all immovable property situate therein, except as otherwise in sections 2 and 8 provided, shall be liable to the payment of a road cess and a public works cess.

6. The road cess and the public works cess shall be assessed on the annual value of lands and on the annual net profits from mines, quarries, tramways, railways and other immovable property ascertained respectively as in this Act prescribed;

and the rates at which such cesses respectively shall be levied for each year shall be determined for such year in the manner in this Act prescribed;

Provided that the rate at which each such cess shall be levied for any one year shall not exceed the rate of one-half anna on each rupee of such annual value and annual net profits respectively.

Public reve-
nues not
liable for
more road
cess than has
been paid to
Collector by
persons liable.

Government
and guaran-
teed railways
not liable to
the cesses
without con-
sent of Gov-
ernor General
in Council.

7. Nothing in this Act contained shall be deemed to require the payment by the Lieutenant-Governor of Bengal,¹ from the public revenues, of any sum as road cess in excess of such sums as may have been paid as such cess to the Collector by persons liable to pay the same.

8. No railway or tramway, the property of the Govern-
ment of India, and no railway or tramway of which the divid-
end is guaranteed by Her Majesty's Secretary of State for India
in Council, or by the Governor General of India in Council, or
by the Lieutenant-Governor of Bengal¹, shall be liable to road
cess or public works cess under the provisions of this Act
without the previous consent of the Governor General of India
in Council.

Application of
proceeds of
road cess.

9. The proceeds of the road cess in each district shall be paid into the District Road

Application of
proceeds of
road cess.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D. items 1 and 2, in Vol. I of this Code.

² Section 9 is in force in this form in all areas in Bengal in which the Act is in force, except the Darjeeling district.

³ Section 9 is in force in this form in the Darjeeling district.

The difference in the section as in force in the Darjeeling district and elsewhere lies in the words printed in italics.

of 1880.]

(Part I.—Chapter I.—Imposition and Application of the Cesses.—Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 10-12.)

Fund of such district, as hereinafter provided.

Fund of such district, as hereinafter provided, *and, together with other assets of such Fund, shall be applied to the purposes mentioned in section 109².*

10. The proceeds of the public works cess³ [and all interest paid thereon] shall be paid into the public treasury, and shall be applied (1) to the payment of such contributions to the District Road Fund as the Lieutenant-Governor⁴ may think proper in consideration of the said cess being assessed and collected jointly with the road cess by establishments paid from the District Road Fund; and (2) to the construction charges and maintenance of the provincial public works, and to the payment of interest on capital which may have been expended, or which may hereafter be expended, on such works, in such manner as the Lieutenant-Governor⁴ may direct.

Application of proceeds of public works cess.

11. The Lieutenant-Governor⁴ shall, by an order⁵ published in the Calcutta Gazette, fix the date from which the cesses leviable under this Act in any district or part of a district shall take effect therein, and may fix and from time to time alter the date from which the cess year shall run in any district or part thereof.

Power to fix cess year.

Part II.—Mode of Assessment.

CHAPTER II.

VALUATION OF LANDS.

Board of Revenue may order valuation,

⁶12. Upon the commencement of this Act in any district or part of a district,

⁷12. Upon the commencement of this Act in any district or part of a district,

Lieutenant-Governor may order valuation,

¹ The words "and, together with other assets of such Fund, shall be applied to the purposes mentioned in section 109" were repealed by the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 2, in all areas in which the present Act is in force, except the Darjeeling District.

² The figures "109", in s. 9, were substituted for the figures "111" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881) s. 1, *post* p. 619.

³ These words in square brackets in s. 10 were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 2, *post*, p. 619.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

⁵ For a list of orders made under section 11 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ Section 12 is in force in this form in Western Bengal.

The differences in section 12 as in force in Western Bengal and in Eastern Bengal, respectively lie in the words printed in italics.

⁷ Section 12 is in force in this form in Eastern Bengal.

(Part II.—Chapter II.—Valuation of Lands.—Sec. 13.).

the ¹ Board of Revenue may order that a valuation shall be made of such district or part of a district;

and re-valuation.

and from time to time, after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any re-valuation as hereafter provided in this section² or in Chapter IIA, or at any time within twelve months previous to the expiration of such term,

the ¹ Board of Revenue may, if *they* think fit, order that a re-valuation shall be made of any such district or part of a district, and such re-valuation shall take effect from the beginning of such year as the ¹ Board of Revenue may direct.

After five years holder of estate or tenure may apply to Collector for re-valuation.

the ² Lieutenant-Governor may order that a valuation shall be made of such district or part of a district;

and re-valuation.

and from time to time, after the expiration of the term of five years from the beginning of the year in which the levy of the cesses took effect in accordance with any such valuation, or with any re-valuation as hereafter provided in this section, or at any time within twelve months previous to the expiration of such term,

the ² Lieutenant-Governor may, if *he* think fit, order that a re-valuation shall be made of any such district or part of a district, and such re-valuation shall take effect from the beginning of such year as the ² Lieutenant-Governor may direct.

13. Whenever the term of five years shall have expired from the beginning of the year in which the levy of the cesses took effect in any estate or tenure in accordance with any valuation [or re-valuation] under this Act or Bengal Act 10 of 1871³, the holder of any such estate or tenure may apply to the Collector to re-value his estate or tenure, and for such purpose shall lodge in the office of the Collector returns in the form in Schedule A contained; and thereupon the Collector shall proceed to re-value such estate or tenure, and, if he make any alteration in the valuation of any such tenure, shall give notice of such alteration to the holder of the estate or superior tenure in which such tenure is included, and shall alter the valuation of such estate or superior tenure accordingly:

¹ These words "Board of Revenue" in s. 12, were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (1), in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue—see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 2, in Vol. I of this Code.

³ The words "or in Chapter IIA" in s. 12, were inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 3, in Vol. III of this Code.

⁴ This word "they" in s. 12, was substituted for the word "he", for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5(2), in Vol. III of this Code.

⁵ These words "or re-valuation", in s. 13, were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 3, *post*, p. 619.

⁶ Ben. Act 10 of 1871 has been repealed by this Act—see s. 3, *ante*, p. 580.

of 1910.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sec. 14.)

Provided that no re-valuation or reduction of the amount of cesses previously payable in respect of any estate or tenure, in consequence of a re-valuation under this section, shall take effect until the beginning of the year commencing next after such re-valuation, unless the application for re-valuation shall have been made and the necessary returns lodged in the Collector's office within three months after the beginning of a year, in which case such re-valuation and reduction, if any, shall take effect from the commencement of such year.

Proclamation to make return of lands to be issued.

¹14. Whenever the ³Board of Revenue has ordered under section 12 that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure in the form in Schedule A contained, giving the particulars in such form set forth.

Publication of proclamation.

The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicu-

²14. Whenever the ¹Lieutenant-Governor has ordered that a valuation or a re-valuation of any district or part of a district shall be made for the purposes of this Act, the Collector of the district shall cause a proclamation to be issued requiring every holder of an estate or tenure which is liable to pay an annual amount of revenue or an annual amount of rent exceeding one hundred rupees and every holder of a revenue-free estate or rent-free tenure the gross annual rental of which exceeds one hundred rupees, severally to lodge at the office of such Collector within one month a return of all lands comprised in his estate or tenure in the form in Schedule A contained, giving the particulars in such form set forth.

Proclamation to make return of lands to be issued.

The Collector of the district shall cause such proclamation to be published by affixing a copy thereof in some conspicu-

Publication of proclamation.

¹ Section 14 is in force in this form in Western Bengal.

The differences in s. 14 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

² Section 14 is in force in this form in Eastern Bengal.

³ These words "Board of Revenue," in s. 11, were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (7), in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

⁴ These words "under section 12," in s. 14, were inserted for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 4, in Vol. III of this Code.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Item 2, in Vol. I of this Code.

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 15, 16.)

ous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Sub-divisional Officer within the district, and in any other manner which the ¹*Board of Revenue* may from time to time direct.

Re-valuation may be of particular estates or tenures only.

¹**15.** At any time at which the ¹*Board of Revenue* might order a re-valuation of a district or part of a district to be made as provided by section 12, ²*they* may, if ³*they* think fit, instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

Notice to lodge returns.

¹**16.** Whenever any proclamation has been published, as mentioned in section 14, in any district, and whenever the ¹*Board of Revenue* has made an order, under the last preceding section, that a re-valuation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate or tenure severally to lodge at the office

ous place in the office of such Collector, in every Civil Court, in every police-station, and in the office of every Sub-divisional Officer within the district, and in any other manner which the ¹*Lieutenant-Governor* may from time to time direct.

¹**15.** At any time at which the ¹*Lieutenant-Governor* might order a re-valuation of a district or part of a district to be made as provided by section 12, ²*he* may, if ³*he* think fit, instead of so ordering, make an order that particular estates or tenures only in such district or part of a district shall be re-valued.

Re-valuation may be of particular estates or tenures only.

¹**16.** Whenever any proclamation has been published, as mentioned in section 14, in any district, and whenever the ¹*Lieutenant-Governor* has made an order, under the last preceding section, that a re-valuation of particular estates and tenures only shall be made, the Collector shall cause a notice to be served in respect of every estate and tenure which is to be valued or re-valued and in respect of which no return shall have been lodged in accordance with the requirement of such proclamation, requiring every holder of such estate or tenure severally to lodge at the office

Notice to lodge returns.

¹ These words "Board of Revenue," in ss. 14, 15 and 16, were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (f), in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913).

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Item 2, in Vol. I of this Code.

³ Sections 15 and 16 are in force in this form in Western Bengal.

The differences in ss. 15 and 16 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁴ Sections 15 and 16 are in force in this form in Eastern Bengal.

⁵ This word "they," in s. 15, was substituted for the word "he," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (f), in Vol. III of this Code.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sec. 17.)

of the Collector the return mentioned in section 14;

and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act 10 of 1871,¹ either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or re-valuation, or of which the existence may in any other way have come to his knowledge.

of the Collector the return mentioned in section 14;

and shall also cause a similar notice to be served in respect of every tenure included in any such estate or tenure which may have been named in any return lodged in pursuance of the provisions of this Act, or of Bengal Act 10 of 1871,¹ either for the purposes of the valuation or re-valuation then contemplated, or for the purposes of any previous valuation or re-valuation, or of which the existence may in any other way have come to his knowledge.

17. The notice mentioned in the last preceding section shall be in the Form No. I in Schedule B contained, or in the Form No. II in the said Schedule contained, as the case may be, and shall require every holder of the estate or tenure severally to lodge the return within the time specified below, namely:—

Form of notice and time for lodging returns.

In the case of Revenue-paying Estates and Rent-paying Tenures

If the return relate to an estate or tenure which is liable to the payment of annual revenue or of rent not exceeding Rs. 500, or to any share or interest in such estate or tenure

Within six weeks of the service of the notice

If the return relate to any other estate or tenure, or to any share or interest therein.

Within three months of the service of the notice

In the case of Revenue-free Estates and Rent-free Tenures.

If the return relate to any estate or tenure of which the gross annual rental does not exceed Rs. 500, or to any share or interest in such estate or tenure.

Within six weeks of the service of the notice.

If the return relate to any other estate or tenure, or to any share or interest therein.

Within three months of the service of the notice.

The Collector may in his discretion extend the time allowed for lodging any such return.

¹ Ben. Act 10 of 1871 has been repealed by this Act—see s. 8, and

*(Part II.—Mode of Assessment.—Chapter II.—Valuation
of Lands.—Secs. 18-20.)*

Penalty for
omitting to
make return.

18. All holders of estates or tenures in respect of which such notice has been served who shall, without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to lodge the required return in the office of such Collector within the time allowed by such notice in respect of the estate or tenure which they hold, or within any extended time which may have been allowed by the Collector for lodging such return, shall be severally liable to a fine which may extend to fifty rupees for every day after the expiration of such time or extended time until such return is furnished, or until the value of the lands comprised in their respective estates and tenures shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner shall otherwise direct.

Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

No rent to be
recovered till
return is
made.

19. From and after the expiry of the time allowed by the notice, or of any extended time under the provisions of section 17, every holder of an estate or tenure in respect of which such notice has been served shall be precluded from suing for or recovering rent for any land or tenure situate in any estate or tenure in respect of which no return has been lodged as aforesaid.

The Collector may send a list to the Civil Court of all such holders so making default in lodging returns as aforesaid, and such Court shall take judicial notice of the same.

Whenever the required return is lodged in respect of any estate or tenure or whenever the valuation of any such estate or tenure has been otherwise completed, the disability imposed on the holder thereof by this section shall cease; and, if such estate or tenure shall have been included in any list as aforesaid, the Collector shall forthwith give notice to the Civil Court of the cessation of such disability.

No rent to be
recovered for
land, etc., not
mentioned in
return

20. Every holder of an estate or tenure in respect of which a return has been made as required by this Chapter shall be precluded from suing for or recovering—

- (a) any rent whatsoever for any land, holding or tenure forming part of the estate or tenure to which such return relates, but which has not been mentioned in such return, unless it be proved that the holding

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 21, 22.)

or tenure for the rent of which the rent is claimed was created subsequently to the lodging of such return;

- (b) rent at any higher rate than is mentioned in such return for any land, holding or tenure included in such return, unless it be proved that the rent of such land or tenure has been lawfully enhanced subsequently to the lodging of such return;

Provided that the Collector may at his discretion, at any time within six months from the presentation of any return made under this Part, receive a petition correcting any such return;

and on the acceptance of such petition may make such correction in the valuation of the estate or tenure as may be required;

and, as soon as the person in respect of whose estate or tenure the return and valuation have been so corrected shall have paid in all sums due by him as road cess and public works cess in accordance with such corrected valuation and not otherwise, such person may recover such rent as may be due to him on any tenure or land included in the return of such estate or tenure at any rate not being in excess of the rate shown in the corrected return as payable in respect of such tenure or land.

Such notices as the Collector may direct shall be served upon the parties affected by such petition at the expense of the person lodging the return as aforesaid.

21. If no return shall have been lodged in respect of any lands for which notice under section 16 has been issued, the Collector may, after the expiration of the time allowed by the notice, or of such extended time as is mentioned in section 17, ascertain and fix, by such ways and means as to him shall seem expedient, the annual value of any estate, tenure or lands mentioned in such notice; and all expenses incurred in making such valuation may be recovered with all costs of recovery thereof as provided in sections 98 and 99.

If returns not furnished, Collector to make valuation.

Valuation by Collector where return untrue or incorrect.

22. If the Collector is satisfied, for reasons to be recorded by him in writing, that any return made under this Act is untrue or incorrect,

22. Whenever the maker of any return under this Act has been convicted on a prosecution under section 94 of making a false return relating

After conviction of making false return, Collector may make valuation.

¹ Section 22 is in force in this form in Western Bengal, having been substituted by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 6 (in Vol. III of this Code), for the section printed opposite to it.

² Section 22 is in force in this form in Eastern Bengal:

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 23, 24.)

he may, by such ways and means as to him may seem expedient, ascertain and fix the annual value of the lands in respect of which the return has been made:

Provided that no such action shall be taken without giving notice to the person who made the return and allowing him an opportunity to prove that the return is not untrue or incorrect.

Recovery of
expense of
such
valuation.

23. The expense of any valuation made by the Collector under section 22 may be recovered, in the manner prescribed in sections 98 and 99, from the person by whom the untrue or incorrect return was made:

Provided that, where such return relates to lands for which no rent is payable by cultivating *raiya*s to the person who made the return, and the annual value of such lands, as determined by the Collector under section 22, does not exceed by one-fifth the value stated in such return, the said expense shall be borne by the District Road Fund.

Person
returned
as cultivating
*raiya*s may be
served with
notice.

24. The Collector may, whenever he may think fit, cause a notice in the Form No. I in Schedule B contained to be served on any person holding any lands or possessing any interest therein, although such person may have been mentioned in any return as a cultivating *raiya*; and thereupon such

to any lands, the Collector may, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of such lands;

and the expense of such valuation may be recovered from the maker of such return as provided in sections 98 and 99.

23. Whenever the Collector may deem that any return lodged relating to lands for which no rent is payable by cultivating *raiya*s to the person making such return is untrue or incorrect, he may, whether any prosecution as mentioned in section 94 shall have been instituted or not, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of such lands;

and, in case the annual value of such lands so determined by him shall exceed by one-fifth the value stated in such return, the expense of such valuation may be recovered from the person by whom such return was lodged, as provided in sections 98 and 99; and in all other cases the said expense shall be borne by the District Road Fund.

In certain
cases of
incorrect
returns,
Collector to
make
valuation
whether
prosecution
be instituted
or not.

¹ Section 23 is in force in this form in Western Bengal, having been substituted by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 6 (in Vol. III of this Code), for the section printed opposite to it.

² Section 23 is in force in this form in Eastern Bengal.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 25-28.)

person shall be bound to make a return of the annual value of such lands within one month from the service of such notice in the form in Schedule A contained, and the provisions of sections 17 and 18 regarding extension of time for lodging a return and regarding fines respectively shall be applicable to such person.

25. If no return is made by any person on whom a notice has been served as provided in the last preceding section, the Collector may proceed, by such ways and means as to him shall seem expedient, to ascertain the annual value of the lands held by such person; and, in case it appears that such annual value is greater than the rent paid by such person, the expense of such valuation shall be borne by such person and may be recovered with all costs of recovery thereof as provided in sections 98 and 99, but in all other cases shall be borne by the District Road Fund.

If no return made, Collector may ascertain annual value of lands.

26. If it shall appear to the Collector that any person on whom a notice has been served under section 24 has been wrongly classed in the return as a cultivating *raiyat*, the Collector may direct that the entry be corrected and that such person be classed as a tenure-holder;

Collector may correct classification in returns.

and thereupon such person shall be deemed to be a tenure-holder for the purposes of the assessment and levy of the cesses in respect of the lands held by him.

27. Whenever the revenue annually payable in respect of any estate, or the rent annually payable in respect of any tenure, does not exceed the sum of one hundred rupees, the Collector may, without issuing any notice for such estate or tenure,—

Summary valuation of small revenue-paying estates and tenures.

- (a) in any case determine the annual value of the land comprised therein to be in a permanently-settled estate or tenure a sum not exceeding three times, and in a temporarily-settled estate or tenure a sum not exceeding twice, the amount of the annual revenue or rent payable therefor; or,
- (b) when the area of the said estate or tenure has been ascertained, determine the annual value of such estate or tenure to be at such rate per acre as to him shall seem fit.

28. When the area of any revenue-free estates or rent-free tenure, the gross rental of which does not exceed, or is not estimated by the Collector to exceed, the sum of one hundred rupees, has been ascertained, the Collector may, without issuing any notice for such estate or tenure, determine the annual value of such estate or tenure to be at such rate per acre as to him may seem fit.

Summary valuation of small revenue-free estates and rent-free tenures of which the area has been ascertained.

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Sec. 29.)

Computation of annual value of land comprised in a subordinate tenure in a summarily valued estate or tenure.

29. When the land contained in any estate or tenure has been summarily valued by the Collector in the manner provided by clause (a) of section 27, the annual value of any portion of such land which is comprised within a tenure subordinate to such estate or tenure shall be determined according to the following rules:—

- (1) When the subordinate tenure comprises the whole of the estate or superior tenure, the annual value of the subordinate tenure shall be taken to be the same as that of the estate or superior tenure.

Example.—An estate paying a revenue of Rs. 80 is summarily valued by the Collector under clause (a) of section 27 at Rs. 200. The whole estate is let in *patti* for a rent of Rs. 120. The annual value of the *patti* tenure will be Rs. 200.

- (2) When the subordinate tenure comprises a part only of the land constituting the estate or superior tenure—

- (a) the difference between the annual value of the estate or superior tenure, and the revenue or rent payable in respect of such estate or superior tenure, shall first be ascertained;
- (b) next, the ratio which such difference bears to such revenue or rent shall be ascertained;
- (c) then the amount which bears the same ratio to the rent payable in respect of the subordinate tenure shall be ascertained;
- (d) half of the amount so ascertained shall be added to the rent payable in respect of the subordinate tenure; and the result shall be taken to be the annual value of the subordinate tenure.

Example A.—An estate paying revenue of Rs. 60 is summarily valued by the Collector under clause (a) of section 27 at Rs. 100. A part only of the estate is let in *patti* for a rent of Rs. 37.8

The difference between the annual value of the estate (Rs. 100) and the revenue paid in respect of it (Rs. 60) is Rs. 40. This difference bears a ratio of two-thirds to this revenue (Rs. 60).

The amount which bears the same ratio (two-thirds) to the rent payable in respect of the *patti* (Rs. 37.8) is Rs. 25;

add half of Rs. 25 to the rent payable in respect of the *patti* tenure, and the result (Rs. 37.8 + Rs. 12.8 =) Rs. 50 will be the annual value of the *patti* tenure.

Example B.—Within the *patti* tenure paying a rent of Rs. 37.8, as in Example A, is a *dar-patti* tenure paying a rent of Rs. 27.

The difference between the annual value of the *patti* tenure ascertained as above (Rs. 50) and the rent payable in respect of the *patti* (Rs. 37.8) is Rs. 12.8, which bears a ratio of one-third to the said rent.

¹ The word "ratio", in Example B, was substituted for the word "rate" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code. That Act is now known as the Amending Act, 1908 (1 of 1908)—vide Act 10 of 1914, Sch. II.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation
of Lands.—Secs. 30-34.)

The amount which bears the same ratio (one-third) to the rent payable in respect of the *darpatni* (Rs. 27) is Rs. 9; add half of Rs. 9 to the rent payable in respect of the *darpatni*, and the result (Rs. 27 + Rs. 4.5 =) Rs. 31.5 will be the annual value of the *darpatni* tenure.

30. When the land contained in any estate or tenure has been summarily valued according to a rate per acre, under clause (b) of section 27, or under section 28, the annual value of the land comprised in any subordinate tenure shall be taken at the same rate per acre as that of the estate or superior tenure.

When such land may be valued according to rate per acre.

31. The holder of any estate or tenure which has been summarily valued under section 27 or 28, may, within one month from the posting of the valuation-roll in respect thereof under section 35, lodge a return in the form in Schedule A contained in regard to such estate or tenure, and thereupon such return shall be deemed to be a return made as required by section 16 and shall be dealt with accordingly.

Holder of summarily valued estate or tenure may lodge return.

32. Instead of proceeding to value any estate or tenure summarily under the provisions of section 27 or 28, the Collector may, if he think fit, cause a notice to be served in respect of any such estate or tenure in the Form No. 1 in Schedule B contained, or in the Form No. 11 in the said Schedule contained, as the case may be, and thereupon all the provisions of this Part shall apply in the same way as they would have applied if the annual Government revenue or rent payable in respect of such estate or tenure had exceeded one hundred rupees.

Collector may value small estate or tenure by regular process.

Lands used for Tea, Coffee or Cinchona.

33. In the case of lands acquired under any rule issued by, or under the authority of, the Government for the sale, lease, grant or clearance of waste-lands, or held directly from Government, and used for the cultivation of tea, coffee or cinchona, the Collector shall, in lieu of the notice prescribed by section 16, cause a notice to be served calling on the holder of such lands to lodge, within two months of the service of such notice, a return in the form in Schedule C contained, giving the particulars in such form set forth; and the annual value of such lands shall be fixed at ten rupees in respect of every acre therein entered as cultivated, unless the Board of Revenue shall in any particular case prescribe a lower rate.

Return of plantations, etc.

The provisions of sections 18 and 21 shall apply to all lands in respect of which a notice has been issued under this section.

Publication of Valuation-rolls and Duration of Valuations.

34. Whenever any valuation or revaluation is made under this Part, the Collector shall cause to be prepared from the

Valuation-rolls to be prepared.

[Ben. Act 9]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Secs. 35, 36.)

returns furnished to him and from the valuations made by him in accordance with this Act a valuation-roll of each estate within his district and of the tenures therein comprised, noting thereon for each estate the amount of revenue annually payable to Government on which the deduction specified in section 41 is to be calculated.

On the application of any holder of an estate or tenure or holding, and on payment of such copying fee as the Board of Revenue shall from time to time determine, the Collector shall cause to be furnished to such holder a copy or corrected copy of so much of any such returns, and of any such roll, as relates to the lands included within his estate, tenure or holding.

Publication
of rolls

35. On the completion of every roll prescribed under this Part, the Collector shall cause a copy thereof to be posted up at the *mal-cutcherry* of the estate to which such roll refers, and shall cause extracts of such portions of any such roll as refer to any tenure to be posted up at the *mal-cutcherry* of such tenure:

Provided that, if no such *mal-cutcherry* be found, such roll and such extracts shall be posted up at some conspicuous places on the estate and tenures respectively to which they refer, and that, if such estate or tenure cannot be found, such roll and such extracts shall be posted at some conspicuous place in any village in which such estate or tenure is believed to be situate.

To be attended
by two per-
sons.

The person who is entrusted with the publication of any such return shall obtain an acknowledgment in writing signed by two persons who may be either respectable residents of the neighbourhood, or *chaukidars*, or other officers of Government, to the effect that such return was duly published on the spot, and shall give in such acknowledgment to the Collector.

Valuation and
re-valuation
to be in force
for five years.

36. Except as otherwise in this Part expressly provided, every valuation and re-valuation made under this Chapter shall remain in force for the term of five years from the date fixed by the *Board of Revenue* under section 12 as the date from which the cess leviable in pursuance thereof

36. Except as otherwise in this Part expressly provided, every valuation and re-valuation made under this Chapter shall remain in force for the term of five years from the date fixed by the *Lieutenant-Governor* under section 12 as the date from which the cess leviable in pursuance thereof

Valuation and
re-valuation
to be in force
for five years.

¹ Section 36 is in force in this form in Western Bengal.

The difference in section 36 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

² Section 36 is in force in this form in Eastern Bengal.

³ These words "Board of Revenue," in s. 36, were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (1), in Vol. III of this Code.

⁴ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913).

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 2, in Vol. I of this Code.

of 1880.]

(Part II.—Mode of Assessment.—Chapter II.—Valuation of Lands.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37, 37A.)

shall take effect, and thereafter, until another revaluation and assessment in substitution therefor shall have been ordered and completed.

Collector may
reduce
valuation,

¹37. Nothing in section 36 contained shall be held to debar the Collector, with the sanction of the ²Commissioner from making at any time any reduction which he may think fit in the valuation of any estate or tenure ;

and may value
and assess
omitted and
newly-formed
estates and
tenures.

or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made.

shall take effect, and thereafter, until another revaluation and assessment in substitution therefor shall have been ordered and completed.

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and may value
and assess
omitted and
newly-formed
estates and
tenures.

or from making a valuation of and assessing and levying cess under the rules laid down in this Part upon any estate or tenure which for any reason whatever has been omitted from the valuations and assessments for the time being in force, or which was not in existence when such valuation or assessment was made.

CHAPTER IIA.

PROCEDURE FOR VALUATION OF LANDS IN RESPECT OF WHICH A RECORD-OF-RIGHTS IS BEING PREPARED, REVISED OR MAINTAINED.

Valuation
during pre-
paration, re-
vision or main-
tenance of
record-of-
rights.

37A. (1) Notwithstanding anything contained in Chapter II, the ¹Board of Revenue may, if they think fit, order² that a valuation shall be made by the Settlement Officer of any

¹ Section 37 is in force in this form in Western Bengal.

The difference in section 37 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

² Section 37 is in force in this form in Eastern Bengal.

³ This word "Commissioner," in s. 37, was substituted for the words "Board of Revenue" for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 7, in Vol. III of this Code.

⁴ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913.)

⁵ Chapter II A (sections 37 A to 37-I) was inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 8, in Vol. III of this Code. No similar Chapter has been enacted for Eastern Bengal.

⁶ For a list of orders made under section 37A, see the Bengal Local Statutory Rules and Orders 1912, Vol. I, Pt. VI.

[Ben. Act 9]

(Part II.—Mode of Assessment.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37B, 37C.)

local area, estate or tenure, or part thereof, in respect of which—

- (a) a record-of-rights is being prepared or revised under Chapter X¹ of the Bengal Tenancy Act, 1885, or any other law for the time being in force, or
- (b) a record-of-rights so prepared or revised is being maintained by an officer appointed by the Local Government in that behalf.

8 of 1885.

(2) Every valuation made under sub-section (1) shall take effect from the beginning of such year as the Board of Revenue² may direct;

Provided that no such valuation shall take effect before the expiration of the period of five years prescribed by section 36 for the continuance of the last preceding valuation (if any).

Preparation
of valuation-
roll by Settle-
ment Officer.

37B. (1) When an order has been issued by the Board of Revenue² under section 37A, the Settlement Officer shall at the time of preparing or revising the record-of-rights for the local area, estate or tenure, or part thereof to which such order relates, prepare a valuation-roll showing the annual value of all lands comprised within such local area, estate or tenure.

(2) Where the lands of a local area, estate or tenure, in respect of which a valuation-roll is to be prepared under sub-section (1), are situate in more than one district, the Settlement Officer may prepare the valuation-roll in respect of the lands lying in one district; and valuation may be effected and brought into force for the portion of the local area, estate or tenure situate in such district, in accordance with the procedure hereinafter prescribed.

Method of
valuation by
Settlement

37C. The Settlement Officer shall, without calling for returns from the holders of estates or tenures, ascertain and fix the annual value,—

- (a) in the case of land the rent of which is payable in cash—on the basis of the rent which has been entered as payable therefor in the record-of-rights, and

¹ Printed in Vol. I of this Code.

² As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

of 1885.]

(Part II.—Mode of Assessment.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37D-37F.)

(b) in all other cases—by such ways and means as the Board of Revenue¹ may prescribe² in that behalf.

37D. Notwithstanding anything contained in section 37C, the Settlement Officer may, for the purpose of ascertaining or fixing the annual value of any land held without payment of rent, other than land mentioned in section 33, and other than estates entered on the general register of revenue-free lands of the district, exercise any of the powers and functions which are exercisable by a Collector under Chapter IV.

37E. When a draft valuation-roll has been prepared, the Settlement Officer—

- (a) shall publish the draft together with, and in the manner and for the period prescribed by the law for the time being in force for the publication of, draft records-of-rights, and
- (b) shall receive and consider objections to any entries in the valuation-roll at the time and in the manner prescribed by such law for receiving and considering objections to entries in draft records-of-rights.

37F. When such objections have been considered and disposed of according to such rules as the Local Government may prescribe, the Settlement Officer shall finally frame the valuation-roll and shall cause it to be finally published, and thereafter shall refuse to receive and consider any objections which may be made to any entry therein:

Provided that, where any material alteration has been made in the record-of-rights in accordance with any decision under section 104H, section 105, section 105A or section 106 of the Bengal Tenancy Act, 1885³, or under any other law for the time being in force, a corresponding correction shall be made in the valuation-roll after its final publication.

Powers and functions of Settlement Officer in regard to valuation of rent-free lands.

Publication of draft valuation-roll and hearing of objections.

Final publication of valuation-roll

¹ of 1885.

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918.)

² For an order made under section 37C (b), see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Printed in Vol. I of this Code.

[Ben. Act 9]

(Part II.—Mode of Assessment.—Chapter IIA.—Procedure for valuation of lands in respect of which a record-of-rights is being prepared, revised or maintained.—Secs. 37G-37-I.)

Appeals
against
entries in
valuation-roll.

37G. (1) Where the Settlement Officer has ascertained and fixed the annual value of any land in the manner described in clause (a) of section 37C, no appeal shall lie against the entry of such annual value in the valuation-roll; and the entry in the record-of-rights of the amount of rent payable in cash for such land shall, for the purposes of this Act, be final.

(2) Where the Settlement Officer has ascertained and fixed the annual value of any land by any of the ways and means prescribed under clause (b) of section 37C, or in exercise of powers referred to in section 37D, an appeal shall, if preferred within one month from the final publication of the valuation-roll, lie to such authority as the Local Government may by rule¹ prescribe.

(3) The Commissioner may, on application made to him within one month from the date of the decision of the appellate authority in an appeal under sub-section (2), revise such decision.

Submission of
valuation-roll
to Collector,
and Collector's
procedure
thereupon.

37H. (1) When the valuation-roll has been finally published, the Settlement Officer shall submit it to the Collector.

(2) On receipt of such valuation-roll the Collector shall note thereon the total annual value of each estate and of the tenures therein comprised, and the amount of revenue annually payable to the Government on which the deduction specified in section 41 is to be calculated.

(3) The Collector shall not entertain any objection against the total annual value of any estate or tenure which has been calculated under sub-section (2), except on the ground that an error or omission has been made in calculating the same.

Term of, and
Collector's
power to
reduce,
valuation.

37-I. The provisions of section 36 with regard to the term of a valuation, and of section 37, with regard to the power of the Collector to reduce a valuation, shall apply to a valuation made under this Chapter.

¹ For rules made under section 37G (?), see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating and
Levy of the Cesses.—Secs. 38-40.)

CHAPTER III.

RATING AND LEVY OF THE CESSES.

Rate at which
road cess shall
be levied how
to be fixed.

¹38. The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate² as may be determined for such year by the District Board.

²38. The road cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as may be determined for such year by the Committee of such district with the approval of the Commissioner under section 150 or 151, or with the approval of the Lieutenant-Governor⁴ under section 153, as the case may be, or at such rate as the Lieutenant-Governor⁴ may order under section 153.

Rate at which
road cess shall
be levied how
to be fixed.

Rate at which
public works
cess shall be
levied how
to be fixed.

39. The public works cess for each year shall be assessed and levied in each district as provided in section 6, and, subject to the maximum rate in that section mentioned, at such rate as the Lieutenant-Governor⁴ may determine for such year.

Notice
showing
amount of
cess payable
to be served
on zamindars.

⁴40. When the rate of road cess and public works cess to be levied in any district shall have been determined for any year and published in the Calcutta Gazette⁵, the Collector of the district

⁴40. When the rate of road cess and public works cess to be levied in any district shall have been determined for any year and published in the Calcutta Gazette⁵ as provided in section 155, the Collector of the district

Notice
showing
amount of
cess payable
to be served
on zamindars.

¹ This section 38 was substituted for the original section 38 by the Bengal Local Self-Government (Amendment) Act of 1886 (Ben. Act 8 of 1886), s. 2, and applies to all areas in Bengal in which the present Act is in force, except the Darjeeling district.

² This section 38 applies only to the Darjeeling district.

³ As to fixing the rate of road-cess, see the Bengal Local Self-Government Act of 1886 (Ben. Act 8 of 1886), s. 46, *post*, p. 924.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

⁶ Section 40 is in force in this form in all areas in Bengal in which the Act is in force, except the Darjeeling District.

⁷ Section 40 is in force in this form in the Darjeeling district.

The difference in the section as in force in the Darjeeling district and elsewhere lies in the words printed in italics.

⁸ The words "as provided in section 155" were repealed by the Bengal Local Self-Government Act of 1886 (Ben. Act 8 of 1886), s. 2, in all areas in which the present Act is in force, except the Darjeeling district.

*(Part II.—Mode of Assessment.—Chapter III.—Rating and
Levy of the Cesses.—Sec. 40A.)*

shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil Court, in every police-station, and in the office of every Sub-divisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect:

Provided that it shall not be necessary to serve such notice, when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section.

shall cause the rate so determined to be published by affixing a notification in some conspicuous place in the office of the said Collector, in every Civil Court, in every police-station, and in the office of every Sub-divisional Officer within the district, and

shall cause such rate to be proclaimed by beat of drum throughout the district, and

shall cause to be served on the holder of every estate within the district a notice showing the amount of road cess and public works cess payable in respect of his estate, and specifying the date from which such road cess and public works cess will take effect:

Provided that it shall not be necessary to serve such notice when no change has been made in the valuation of the estate or in the rate of road cess or public works cess since the issue of the last notice under this section.

Recovery of
cess from
tenures in
Government
estates.

40A. Notwithstanding anything in the definitions of "estate" and "tenure" in section 4 or elsewhere in this Act contained, the Board of Revenue¹ may direct that any land (other than the holding of a cultivating *raiyat*) of which the rent or revenue is payable directly to the Government as proprietor thereof shall, for the purposes of this Part, be deemed to be a tenure and not an estate, and that the Government shall be deemed to be the holder of the estate within which such tenure is included, and thereupon the Collector may recover any sum payable from such tenure under the provisions of this Act, in the same manner and under the same penalties as if the same were arrears of rent or revenue due to him.

¹ Section 40A was inserted by the Bengal Cess (Amendment No. 3) Act, 1881 (Ben. Act 2 of 1881), s. 4, post, p. 619.

² As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918.)

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Sec. 41.)

41. Except as otherwise in this Act provided,—

- (1) every holder of an estate shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of the lands comprised in such estate, at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the revenue entered in the valuation-roll of such estate as payable in respect thereof;
- (2) every holder of a tenure shall yearly pay to the holder of the estate or tenure within which the land held by him is included the entire amount of the road cess and public works cess calculated on the annual value of the land comprised in his tenure at the rate or rates which may have been determined for such cesses respectively for the year as in this Act provided, less a deduction to be calculated at one-half of the said rates for every rupee of the rent payable by him for such tenure;
- (3) every cultivating *raiyat* shall pay to the person to whom his rent is payable one-half of the said road cess and public works cess calculated at the said rate or rates respectively upon the rent payable by him, or upon the annual value ascertained under the provisions of section 24 or 25 of the land held by him.

Mode of payment of road cess and public works cess by holder of estate;

by holder of tenure;

by cultivating *raiyat*;

¹ Notwithstanding anything hereinbefore in this section contained, all persons to whom *chaukidari chakran* lands have been transferred under Part II of the Village Chaukidari Act, 1870², or the heirs or assigns of such persons, shall yearly pay to the Collector the entire amount of the road cess and public works cess calculated on the annual value of such lands at the rate or rates which may have been determined for such cesses respectively for the year as in

by holders of *chaukidari chakran* lands.

en. Act of 1870.

¹ This paragraph was added to s. 41, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 9, in Vol. III of this Code.

² Printed *ante*, page 178.

[Ben. Act 9]

(Part II.—Mode of Assessment.—Chapter III.—Rating and Levy of the Cesses.—Secs. 42, 43.)

this Act provided, less a deduction to be calculated at one-half of the said rate or rates for every rupee of the assessment approved under the said Part as payable in respect of such lands.

Time of payment by holder of an estate;

42. (1) Every holder of a revenue-paying estate shall pay the amount of road cess and public works cess due by him in equal instalments on the several days fixed ¹ [under the provisions of section 3 of Act 11 of 1859², or of any similar Act, at the time being in force for the payment of arrears] of revenue due in respect of his estate, or, if such revenue be payable in one annual sum, then on the day fixed for the payment of such sum.

(2) Every holder of a revenue-free estate shall pay this amount of road cess and public works cess due by him in two equal instalments or in one annual payment upon such days or day as shall be for that purpose appointed by any order of the Lieutenant-Governor³.

by tenure-holder and raiyat.

(3) Every holder of a rent-paying tenure and every cultivating *raiyat* shall pay the amount of road cess and public works cess due by him in instalments in the proportion of the instalments of rent payable in respect of the tenure or holding of such tenure-holder or *raiyat*:

Provided that in cases in which, according to local usage or to the terms of any agreement, no part of such rent falls due before the end of the year on account of which it is payable, the tenure-holder or *raiyat* shall pay the amount of road cess and public works cess due by him in two equal instalments upon such days as shall be for that purpose appointed by any order of the Lieutenant-Governor³.

Distribution of valuation in case of partition.

43. In case of partition of an estate being effected under Regulation 19 of 1814⁴, or Bengal Act 8 of 1876⁵, or any similar Act, after valuation of such estate and while such valuation remains in force, the total valuation of the original estate shall be distributed proportionately ⁶ [to the land-revenue] under the order of the Collector over the newly-formed estates whereupon the newly-formed estates shall, for the purposes of this Act,

¹ These words in square brackets in s. 42 (1) were substituted for the words "for the payment of the instalments" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 6, *post*, p. 619.

² The Bengal Land Revenue Sales Act, 1859. It is printed in Vol. I of this Code.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ Reg. 19 of 1814 was repealed by the Estates Partition Act, 1876 (Ben. Act 8 of 1876).

⁵ Ben. Act 8 of 1876 has been repealed and re-enacted by the Estates Partition Act, 1897 (Ben. Act 5 of 1897), printed in Vol. III of this Code.

⁶ These words in square brackets in s. 43 were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 6, *post*, p. 619.

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating and
Levy of the Cesses.—Sec. 44.)

take the place of the original estate, the liability to pay cess in respect of each newly-formed estate being separate and distinct from the liability to pay cess in respect of any other of such newly-formed estates.

Such separate liability shall take effect from the same date as the separate liability of the newly-formed estates respectively in respect of land-revenue.

The procedure prescribed by sections 34 and 35 shall be followed whenever a redistribution of the valuation is made in consequence of a partition as mentioned in '[this section].

Procedure to be followed when there is a partition.

44. (1) When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act 11 of 1859¹, or under section 70 of Bengal Act 7 of 1876², or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of road cess and public works cess under this Act, to all the advantages of separate liability enjoyed by him under the said Act 11 of 1859¹ and Bengal Act 7 of 1876² in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of separate notices under this Act from the date on which such advantages shall take effect in respect of the demand of Government revenue.

Effect of opening separate account under Act 11 of 1859 or Bengal Act 7 of 1876.

(2) Whenever any such separate account is opened after the valuation of an estate, and while such valuation remains in force, the Collector shall issue a notice on the holders of the shares severally, in respect of which the accounts are to be kept separately, informing them that, unless any objection is preferred to the Collector within one month of the service of such notice, the amount of the cesses which the whole estate is liable to pay according to the existing valuation will, from the date on which such separate accounts were opened, be apportioned among such shares severally in proportion to the amount of Government revenue for the payment of which each such share is entered in the separate accounts as being liable. Such notice shall specify such proportionate amount.

(3) If no such objection be preferred within the time specified, such proportionate amount shall be the amount of the cesses for which the respective holders of such several shares are primarily liable as mentioned in section 13 of Act 11 of 1859¹ subject, however, to the general responsibility of the holders of the entire estate as mentioned in section 14 of the said Act, if the amount of the cesses due on account of any such share cannot be recovered as provided in sections 98 and 99 of this Act from the holders of such share.

¹These words in square brackets in s. 43 were substituted for the words "the last preceding section" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 6, post, p. 619.

²The Bengal Land Revenue Sales Act, 1859. It is printed in Vol. I of this Code.

³The Land Registration Act, 1876. It is printed ante, p. 845.

*(Part II.—Mode of Assessment.—Chapter III.—Rating
and Levy of the Cesses.—Sec. 44.)*

(4) If any such objection shall be preferred as aforesaid, the total amount of the cesses for which the whole estate is liable according to the existing valuation shall be apportioned among the several shares in respect of which such separate accounts are opened in proportion to the annual value of such shares respectively under such rules or special instructions, not being inconsistent with this Act, as may be issued by the Board of Revenue;¹ and the holders of such several shares shall be primarily liable as aforesaid for the payment of the amount of the cesses so apportioned on their shares respectively.

²(4a) Whenever a recorded sharer of a joint revenue-paying estate applies to the Collector, under section 10 or section 11 of Act 11 of 1859³ or section 70 of Bengal Act 7 of 1876,⁴ for the opening of a separate account of the land-revenue payable by him, he may include in his application a request for the simultaneous opening of a separate account of the road cess and public works cess payable by him.

³(4b) The Collector may thereupon issue a notice to each of the several sharers of such estate, simultaneously with the notice issued under any of the aforesaid sections, informing him that, unless any objection is preferred to the Collector within six weeks of the service of the notice, the amount of the cesses which the whole estate is liable to pay will, from the date on which such separate account is opened, be apportioned among such sharers severally, in proportion to the amount of Government revenue for the payment of which each share is entered in the separate account as being liable.

¹As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1912 (Ben. Act 2 of 1912).

²These sub-sections (4a) and (4b) were inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 10, in Vol. III of this Code.

³The Bengal Land Revenue Sales Act, 1859. It is printed in Vol. I of this Code.

⁴The Land Registration Act, 1876. It is printed *infra*, p. 545.

of 1880.]

(Part II.—Mode of Assessment.—Chapter III.—Rating *with*
Levy of the Cesses.—Secs. 45, 46.)

¹(5) Whenever the separate account of the revenue payable in respect of any share or portion of an estate, as mentioned in clause (1) of this section, shall be closed, the provisions of this section shall cease to have effect in respect of such share.

45. If any instalment of road cess or public works cess or part thereof payable to the Collector shall not be paid within fifteen days from the date on which the same becomes due, the amount of such instalment or part thereof may be recovered at any time within three years after it became due, with interest at the rate of twelve ¹[and a half] *per centum per annum* calculated from the date on which such instalment became due, and with all costs of recovering the same.

Penalty for default of payment of instalments.

46. (1) In any district to which the Lieutenant-Governor² may specially order³ that the provisions of this section shall be extended, it shall be lawful for the Collector to keep a separate account in respect of the amount of cesses payable and paid by any holder of a revenue-free estate who is recorded in Part I of the Collector's general register of revenue-free lands as proprietor or manager of any specified share or interest in any revenue-free property.

With permission of the Lieutenant-Governor, Collector may keep separate account of cesses payable by registered holders of revenue-free estates.

⁴(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue⁵ may from time to time prescribe; ⁶[and the Collector, if he becomes aware that any separate account opened under sub-section (1) does not represent existing facts, may, after service of a notice on the recorded proprietor or manager, and after hearing any objection which may be preferred within

⁶(2) Such separate account shall be opened and kept under such rules as to the levy of fees and other matters, and subject to such conditions and in such manner, as the Board of Revenue⁷ may at any time order that any separate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account.

¹ Sub-section (5) was added to s. 44 by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 7, post, p. 619.

² These words in square brackets in s. 46 were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 8, post, p. 619.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ For orders made under s. 46 (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ Sub-section (2) of section 46 is in force in this form in Western Bengal.

The differences in sub-section (2) of s. 46 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the words printed in italics.

⁶ Sub-section (2) of section 46 is in force in this form in Eastern Bengal.

⁷ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

⁸ These words in square brackets in s. 46 (2), were substituted for the words "and the Board of Revenue may at any time order that any separate account which has been so opened shall be closed from such time as they may direct, and no longer kept as a separate account," for Western Bengal by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 11, in Vol. III of this Code.

(Part II.—Mode of Assessment.—Chapter III.—Rating
and Levy of the Cesses.—Secs. 47-49.)

*six weeks of such service, close
the account.]*

(3) As long as any separate account shall remain open as provided in the '[preceding clause], and no longer, the joint liability of the holders of such revenue-free estate for payment of the entire amount payable in respect of such estate shall cease; and the Collector shall recover the amount of cess or other demand due in respect of each share or interest for which an account has been so separately kept from the holder or holders of such share or interest only; and, if the Collector shall think fit to proceed under section 99, he shall take action under that section against the share or interest only in respect of which the sum demanded is due and the rents thereof¹.

Recovery by
holders of
estates or
tenures.

47. Every holder of an estate or tenure to whom any sum may be payable under the provisions of this Act may recover the same with interest at the rate of twelve and half *per centum per annum* in the same manner and under the same penalties as if the same were arrears of rent due to him.

Recovery from
co-share-
holders.

48. Any shareholder in an estate or tenure who may have paid the road cess or public works cess payable in respect of such estate, tenure or any part thereof in excess of the amount proportionate to his own interest in such estate or tenure, may recover from his co-sharers such sums as he may have paid on account of their respective shares and interests, in the same manner and under similar penalties, or may take credit for such sums in any adjustment of accounts between himself and his co-sharers.

Recovery by
recorded
shareholders
from their
co-sharers by
certificate
process.

49. Whenever any shareholder in an estate who is recorded in the general register of revenue-paying and revenue-free lands maintained by the Collector,

or whenever any shareholder in an estate the extent of whose share or interest in such estate is recorded in any other register kept up by the Collector of lands paying revenue rent to the Collector direct,

shall have paid the road cess or public works cess payable in respect of such estate, or any part thereof in excess of the amount proportionate to his own interest in such estate,

he may, within '*six weeks*' he may, within *fifteen days* of such payment being made, of such payment being made, move the Collector to make a move the Collector to make a

¹ These words in square brackets in s. 46 (3) were substituted for the words "preceding section" by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 9, *post*, p. 619.

² As to the effect of opening a separate account under this section, see also the Bengal Embankment Act, 1882 (Ben. Act 2 of 1882), s. 71, *post*, p. 656.

³ This clause of section 49 is in force in this form in Western Bengal.

The only difference in the clause as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

⁴ These words "six weeks" were substituted for the words "fifteen days," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 12, in Vol. III of this Code.

⁵ This clause of section 49 is in force in this form in Eastern Bengal.

[1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sec. 50.)

certificate, as provided by any law¹ for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate;

certificate as provided by any law¹ for the time being in force for the recovery of public demands, specifying the amount which has been paid in by such shareholder as cess in respect of the recorded share or interest of any other shareholder in the estate;

and thereupon such Collector may, if he think fit, make such certificate, and such certificate shall have the same effect as a certificate made for the recovery of a public demand¹; and the same notices shall be issued and the same proceedings may be taken thereon by the Collector as in case of such certificate:

Provided that the person in whose favour the certificate has been made shall be deemed to be the decree-holder for the sum mentioned in the certificate; and all proceedings taken by the Collector for the recovery of the sums mentioned in the certificate shall be taken at the instance of the person in whose favour the certificate has been made, and at his cost, and on his responsibility, and not otherwise:

Provided also that, if any person against whom such certificate has been made shall object that the amount of the cesses for the recovery of which the certificate has been made is greater than the amount which the applicant for the certificate would recover from such person in a Civil Court as being equitably payable in respect of such person's share or interest in the estate, and if in the opinion of the Collector there is probable ground for such objection, the Collector may, if he see fit, cancel such certificate, and leave the applicant to his remedy in the Civil Court.

CHAPTER IV.

VALUATION AND ASSESSMENT OF LANDS HELD RENT-FREE, AND PAYMENT AND RECOVERY OF CESS IN RESPECT THEREOF.

50. All lands held without payment of rent other than lands mentioned in section 33, and other than estates entered on the general register of revenue-free lands of the district, shall, for the purposes of this Act, be deemed to form a part of any tenure within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any tenure, then to form a part of any estate

Rent-free lands in what estates or tenures to be included for the purposes of this Act.

¹ See now the Bengal Public Demands Recovery Act, 1915 (Ben. Act 3 of 1915), in Vol. III of this Code.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 51-52A.)

within the local boundaries of which they are contained; and if they are not contained within the local boundaries of any estate, then to form a part of the estate in which they were included at the original settlement of such estate; and if there be any doubt as to the estate in which they were so included, then to form a part of such conterminous estate as the Collector, in whose district such conterminous estate is situate, shall by an order under his seal appoint.

Holders of estates and tenures bound to return rent-free lands and to pay cess at half rates for such lands included therein.

51. Every holder of an estate or tenure who is required by this Act to submit a return in the form in Schedule A contained shall be bound to enter in such return all lands of the nature of those specified in section 50 according to the tenor thereof; and shall be bound to pay road cess and public works cess on the annual value of such lands at one-half of the rates fixed under this Act for the levy of such cesses respectively in the district generally for the year.

Notice and extracts of valuation-roll to be published by Collector in respect of such rent-free lands.

52. Whenever any lands held rent-free shall have been included in the return of any estate or tenure as provided in the last preceding section, the Collector shall, on publication of the valuation-roll of such estate or tenure as provided in section 35, cause to be published a notice in the form in Schedule D contained, to which notice shall be annexed such extracts from the valuation-roll of such estate or tenure as relate to such lands.

Such publication may be lawfully made by affixing one copy of such notice and extracts at some conspicuous place in every village within which any such lands are situate,

by depositing another copy of the same at any police-station, registration-office or other Government office in the neighbourhood for the inspection of all concerned,

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout every such village, and shall be to the effect that such extracts have been so affixed and deposited, and that the owners and holders of such lands are required to inform themselves, by inspection of such extracts of the valuation put upon their lands, and to pay yearly to the holder of the estate or tenure in the return of which such lands are included the cesses which shall be payable in respect of such lands under the provisions of this Act.

Certificate of publication of notices under section 52.

52A. Whenever any notice has been duly published under section 52, the Collector shall sign a certificate to that

¹Section 52A was inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 18, in Vol. III of this Code.

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 53, 54.)

effect, and such certificate shall be conclusive proof that the publication has been duly made.

53. Within a reasonable time not exceeding thirty days after the issue of any process for the recovery of any sum due from him as cess under this Chapter, the owner, holder or occupier of any such land may make before the Collector an objection to the valuation of his land as entered in the valuation-roll so published, and on such objection being made the Collector shall, by such ways and means as to him shall seem expedient, ascertain and fix the annual value of the land in the possession of such owner, holder or occupier, and may alter such roll accordingly, and shall give notice of any such alteration to the holder of the estate or tenure to which such roll relates:

Holder of rent-free land may object to valuation.

Provided that nothing in this section shall be taken to authorize the Collector to alter any return so as to show any area of land as held rent-free which the maker of such return can show to be accounted for by him in the return as rent-paying land.

54. In the following cases, that is to say:—

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| <p>(1) whenever a new valuation or re-valuation takes effect in any district or part of a district;</p> <p>(2) whenever the rate fixed for the levy of the road cess or of the public works cess in any year is changed from the rate at which such cess was levied in the preceding year; and</p> <p>¹(3) whenever the dates fixed by the <i>Board of Revenue</i> under section 57 for payment of instalments of the cesses by holders of rent-free land are changed,</p> | <p>²(3) whenever the dates fixed by the <i>Lieutenant-Governor</i> under section 57 for payment of instalments of the cesses by holders of rent-free land are changed,</p> | <p>Notice to be published by holders of estate in certain cases.</p> |
|---|---|--|

the holder of every estate or tenure to whom any cesses are payable in respect of lands held free of rent shall cause a notice to be published in every village in which any such lands are

¹ This clause (3) is in force in this form in Western Bengal.

The difference in the clause as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

² This clause (3) is in force in this form in Eastern Bengal.

* These words "Board of Revenue" were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 5 (2), in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Bengal Act 2 of 1918).

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 2, in Vol. I of this Code.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Sec. 55.)

situate, informing all concerned of the rate which has been fixed for the levy of such cesses respectively; and requiring every owner and holder of any such land of which the cesses are payable to the person who causes the notice to be published to pay the amount of the cesses specified in such notice as it falls due, until a similar notice of change of the amount shall be given.

Such notice shall contain the following information in respect of each tenure and holding of rent-free land which is entered separately in the Collector's valuation-roll:—

- | | |
|--|---|
| <p>¹(1) a statement of the quantity, or a description, of the land, as entered in the Collector's valuation-roll;</p> <p>(2) the name of the owner, holder or occupier of such lands, if known;</p> <p>(3) the annual value of such land as entered in the Collector's valuation-roll;</p> <p>(4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public works cess respectively for the year;</p> <p>(5) the amount of the cesses payable in respect of each tenure or holding, calculated at such rates; and</p> <p>²(6) the dates fixed by the ³Board of Revenue under section 57 for the payment of each instalment, together with the amount of each instalment.</p> | <p>²(1) a specification of the land in respect of which the cesses are payable;</p> <p>(2) the name of the owner, holder or occupier of such lands, if known;</p> <p>(3) the annual value of such land as entered in the Collector's valuation-roll;</p> <p>(4) the rate on each rupee of the annual value which has been fixed under the Act for the levy of the road cess and public works cess respectively for the year;</p> <p>(5) the amount of the cesses payable in respect of each tenure or holding, calculated at such rates; and</p> <p>⁴(6) the dates fixed by the ⁵Lieutenant-Governor under section 57 for the payment of each instalment, together with the amount of each instalment.</p> |
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Mode of
publication.

55. Publication of the notice above-mentioned may be lawfully made by affixing one copy of the same at some conspicuous place in every village in which any such land is situate; by depositing another copy thereof to be available for general inspection at any *mâl-cutcherry* of the estate or tenure

¹ This clause (1) is in force in this form in Western Bengal, having been substituted, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 14 (in Vol. III of this Code), for the clause printed opposite to it.

² This clause (1) is in force in this form in Eastern Bengal.

³ This clause (6) is in force in this form in Western Bengal.

The difference in clause (6) as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

⁴ This clause (6) is in force in this form in Eastern Bengal.

⁵ These words "Board of Revenue" were substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 6 (1), in Vol. III of this Code.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 2, in Vol. I of this Code

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 56-58.)

in which such land is included, or at any other convenient place in the neighbourhood ;

and by proclamation as herein next provided.

The proclamation shall be made by beat of drum throughout such village, and shall be to the effect that such notice has been so affixed and so deposited, that it is open to inspection at the *mâl-cutcherry* or other convenient place as above mentioned, and that every owner and holder of rent-free land is required to inform himself of the contents of such notice and to pay the amount of the cesses due by him accordingly.

56. After publication of the extracts from the roll as provided in section 52, and in cases in which publication of the notice mentioned in section 54 is required, after publication of such notice, and not otherwise, every owner and holder of any rent-free land included in such extracts, and every person in receipt of the rents and profits or in possession and enjoyment of such land, shall be bound to pay year by year to the holder of the estate or tenure in the return of which such land has been included the amount of the road cess and public works cess which may thereafter become due to such holder, calculated on the annual value of such land as entered in such extracts, or on any other annual value which may have been determined by the Collector under section 53, at the full rate or rates which may have been fixed under this Act for the levy of such cesses respectively in the district generally for the year.

Owner of rent-free land bound to pay cess at full rate.

Instalments to be fixed by Board of Revenue.

57. The payment of the cesses for each year by the holder of any land which is held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed¹ by the 'Board of Revenue'.

57. The payment of the cesses for each year by the holder of any land which is held rent-free shall be made by two equal instalments, or in one payment, upon such days or day as shall be for that purpose fixed² by the 'Lieutenant-Governor'.

Instalments to be fixed by Lieutenant-Governor.

58. When an instalment of the cesses due on any rent-free land is not paid to the holder of the estate or tenure to whom it is due within one month of the date on which such instal-

If instalment not paid within a month, the amount may be recovered.

¹ Section 57 is in force in this form in Western Bengal.

The only difference in s. 57 as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

² Section 57 is in force in this form in Eastern Bengal.

³ For a list of orders made under section 57 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ These words "Board of Revenue", in s. 57, were substituted for the words "Lieutenant-Governor" for Western Bengal, by the Bengal Cess Amendment Act, 1910 (Ben. Act 4 of 1910) s. 5 (1), in Vol. III of this Code.

As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913.)

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 2, in Vol. I of this Code.

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 59-62.)

ment is payable, such holder shall be entitled to recover a sum equal to double the amount of such instalment due to him under sections 56 and 57, with interest on such sum calculated at the rate of twelve and a half *per centum per annum* from the date on which such instalment was payable, and with all costs of suit :

Provided that such holder shall have paid to the Collector all sums due to such Collector up to date in respect of road cess and public works cess, and not otherwise.

Holders of estates, etc., may send in supplementary returns in respect of rent-free lands.

59. If the holder of any estate or tenure shall have omitted to enter in his return (whether such return was made under Bengal Act 10 of 1871¹, or under this Act) any rent-free land which he was bound to enter in such return, such holder may at any time after the passing of this Act give in to the Collector a supplementary return showing the necessary particulars in respect of the land so omitted in the form given in Part IV of Schedule A, and shall thereupon pay to the Collector the amount of the cesses which would have been payable by him to such Collector in respect of such land for the three years next preceding, or for any shorter period which may have elapsed since the estate or tenure was last valued.

Effect of supplementary returns.

60. Such supplementary return shall to all intents and purposes have the same effect as a return duly made under the provisions of section 51 ; and sections 51 to 56 (both inclusive) shall be applicable to and in respect of any rent-free land included in such supplementary return.

Sections applicable to amounts payable by owner, etc., of rent-free land.

61. The provisions of sections 57 and 58 shall be applicable to every amount which, as provided in section 56, may become payable by the owner and holder of any such rent-free land to the holder of any such estate or tenure after the fulfilment of the requirements in sections 52, 53 and 54 contained.

Section 58 not applicable to such amounts until sections 52, 53 and 54 are complied with.

62. The provisions of section 58 shall not be applicable to any such amount which may have become so payable under the provisions of Bengal Act 10 of 1871¹, or of this Act before the fulfilment of the requirements of the sections 52, 53 and 54 ; but, when any instalment of cess which may have become payable before the fulfilment of such requirements has not been paid to the holder of such estate or tenure on the date on which such instalment was payable, the holder of such estate or tenure may recover the amount of such instalment, together with interest at the rate of twelve and a half *per centum per annum* on such amount, and with all costs of suit :

Provided that no holder of an estate or tenure shall recover any amount under the provisions of this section unless he has paid to the Collector all sums which became payable by him

¹ Ben. Act 10 of 1871 has been repealed by this Act—see s. 8, ante, p. 550.

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 63-64A.)

to such Collector on account of road cess and public works cess at any date within the year in which the amount sought to be recovered become payable to such holder of an estate or tenure.

63. As soon as the said requirements shall have been fulfilled in respect of any such land which is included in any such supplementary return, every owner and holder of such land and every person in receipt of the rents and profits, or in possession and enjoyment of such land, shall be bound to pay the amount of the road cess and public works cess which may thereafter become due on such land to the holder of the estate or tenure, in the supplementary return of which such land has been included. Sections 56 and 57 and 58 shall be applicable to the cesses so payable.

Owner of rent-free land liable to pay cess in future.

64. (1) Every holder of an estate or tenure who has included any rent-free lands in any return made to the Collector in respect of his estate or tenure under the provisions of the Bengal Act 10 of 1871¹ and has paid to the Collector any cess payable under the said Act, or under the Bengal Act 2 of 1877¹ in respect of the said rent-free lands, may at any time after the commencement of this Act give in to such Collector an additional return in the form given in Part IV of Schedule A.

Additional return of rent-free land entered in return under Bengal Act 1 of 1871 may be made.

(2) Such additional return shall be deemed to be a supplementary return within the meaning of section 59, and from the date of the inclusion of any such lands in such additional return the same consequences shall ensue, and the same rights and obligations accrue to the Collector and to the holder of such estate or tenure, and the same liabilities shall attach to the owner, holder and occupier of such lands, as would have attached to them respectively if such lands had been included in a supplementary return given in under section 59.

Additional return to be deemed supplementary return.

64A. All sums due to the holder of any estate or tenure under the provisions of this Chapter, in respect of any land held rent-free, may be recovered by such holder from any owner or holder of such rent-free land, or from any occupier of the same, by any means and any process by which the amount might be recovered if it were due on account of rent of a transferable tenure or holding, and subject to the same rules as to limitation:

Holders of estates, etc., how to recover from holders of rent-free lands.

Provided that, if any such objection as is mentioned in section 53 has been made before the Collector, no proceedings shall be commenced, and no proceedings which have been

¹ Ben. Acts 10 of 1871 and 2 of 1877 have been repealed by this Act—see s. 8, ante, p. 580.

² Sections 64 A and 64 B were inserted by the Bengal Cess (Amendment, No. 1) Act, 1881 (7 of 1881), and are to be deemed to have been inserted from the date on which Ben. Act 9 of 1880 came into force—see Act 7 of 1881, s. 1, in Vol. I of this Code.

[*Ben. Act 9*]

(*Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent free, and Payment and Recovery of Cess in respect thereof.—Secs. 64B-66.*)

commenced shall be continued, for recovery of cess in respect of the lands which are the subject of such objection, until such objection shall have been disposed of by the Collector.

Owner, holder or occupier of rent-free lands may be sued. Decree against occupier tantamount to decree against owner.

64B. In every suit for the recovery of any such sum, the person to whom the sum is due may proceed at his option either against the owner or holder of the rent-free land in respect of which such amount is due, or against the occupier thereof; and any decree obtained in such suit against any occupier of such land shall have the same effect and be followed by the same consequences in respect of the execution of such decree against the owner or holder of such land, and in respect of the sale of such land in such execution, as if the suit had been brought and the decree given against such owner or holder of such land, but shall have effect against such occupier personally so long only as he remains in occupation of such land, and no longer.

Occupier may deduct cess paid from rent.

65. Whenever any occupier of land which is held rent-free by the owner thereof shall have paid any sum as cess due in respect of such land to any holder of an estate or tenure to whom such cess is payable, such occupier shall be entitled to deduct the sum so paid by him from the rent next thereafter payable by him to the owner of such land, until such sum is fully adjusted.

Notice to be served on holder of rent-free land requiring him to lodge return.

66. Notwithstanding anything in this Chapter contained, the Collector may at any time cause a notice as mentioned in section 16 to be served on the holder of any rent-free land which he shall consider not to have been entered in the return of any estate or tenure in which such land ought to have been included under the provisions of section 51.

Such notice shall require the holder of such land to lodge at the office of the said Collector a return in the form in Schedule A contained in respect of such land;

and on service of such notice the provisions of this Chapter shall no longer apply to such lands: but the same consequences shall ensue and the same liabilities shall attach to the holder of such land as would have ensued and would have attached if such lands had constituted a revenue-free estate.

If the Collector has reason to believe that any land in respect of which he determines to serve such notice has been included in the return of any estate or tenure, he shall give notice of his intention to the holder of such estate or tenure, and shall alter such return as may be requisite, and shall correct the valuation and assessment of such estate or tenure as may be required.

¹ See footnote ¹ on page 566. *ante*.

of 1880.]

(Part II.—Mode of Assessment.—Chapter IV.—Valuation and Assessment of Lands held Rent-free, and Payment and Recovery of Cess in respect thereof.—Secs. 67-71.)

67. If within one year of the commencement of this Act no notice has been served as mentioned in section 66 on the holder of any rent-free land requiring him to lodge a return in the office of the Collector, and if such land has not been included in any extracts from the returns of estates and tenures published by the Collector under section 52 or other similar section, the holder of such rent-free land shall be bound within one month of the expiration of such year to give information of such omission to the Collector, together with a description of the said land, a specification of the village or villages within which it is situate, the area in each village, and the amount of rent payable to him thereupon :

If no notice served, such holder bound to notify omission to Collector.

Provided that no holder of rent-free land who at any time after the expiration of the time prescribed shall of his own motion and otherwise than after the issue of any notice by the Collector in respect of his lands give such information to the Collector shall be liable to prosecution for omitting to give such information within the prescribed time.

68. On receipt of such information, whether within the time prescribed or after the expiration thereof, the Collector may, by an order in writing, require such owner or holder to make a return of his land in the form in Schedule A contained, or, if the gross rental of such land does not exceed one hundred rupees, may order that such land shall be summarily valued under section 27 or section 28, and may proceed to make such valuation.

Collector thereupon may require such holder to make return.

69. Every order made by a Collector under the last preceding section shall have the same effect and be followed by the same consequences as the issue of a notice by the Collector under section 66.

Order to have effect of notice.

70. As soon as any rent-free land which had not previously been included in the valuation of any estate or tenure, has been valued by the Collector after the issue of a notice as provided in section 66, or after an order made under section 68, the holder of such land shall become liable to pay to the Collector the road cess and the public works cess due on such land, in accordance with such valuation, for the three years last preceding such valuation, at the full rates at which such cesses were respectively levied for each such year in the district generally, together with interest calculated at twelve and a half *per centum per annum* on each instalment from the date on which such instalment would have been payable if such valuation had been in force.

Liability of such holder to pay arrears of cesses.

71. No owner or holder of rent-free land on whom a notice has been served by the Collector under section 66, or in respect of whose land an order has been made by the Collector under section 68, shall be liable to have the land to which

Such holder is not liable to pay cesses except to Collector or his Deputy.

[Ben. Act 9]

(Part II.—Mode of Assessment.—Chapter V.—Valuation,
Assessment and Levy of Cesses on Mines, Railways and
other Immovable Property.—Secs. 72, 72A.)

such notice or order refers included in any return of an estate or tenure, or to pay any amount as road cess or public works cess otherwise than to the Collector or to some person appointed by him in that behalf, unless, on a re-valuation of any estate or tenure being made, the Collector shall by an order in writing direct that for the future such land shall be included within such estate or tenure for the purposes of this Act;

and, upon such order being made, the provisions of this Chapter, in so far as they are applicable, shall apply to the assessment and payment of road cess and public works cess in respect of such land.

CHAPTER V.

VALUATION, ASSESSMENT AND LEVY OF CESSES ON MINES, RAILWAYS AND OTHER IMMOVABLE PROPERTY.

Notice to
return profits.

72. On the commencement of this Act in any district, and thereafter before the close of each year, the Collector of the district shall cause a notice to be served upon the owner, chief agent, manager or occupier of every mine, quarry, tramway, railway and other immovable property not included within the provisions of Chapter II, and not being one of the tramways or railways mentioned in section 8; such notice shall be in the form in Schedule E contained, and shall require such owner, chief agent, manager or occupier to lodge in the office of such Collector within two months a return of the net annual profits of such property, calculated on the average of the annual net profits thereof for the last three years for which accounts have been made up.

Such Collector may in his discretion extend the time allowed for lodging such return.

Penalty for
omitting to
lodge a re-
turn.

¹**72A.** (1) Any owner, chief agent, manager or occupier who, without sufficient cause being shown to the satisfaction of the Collector, refuses or omits to lodge the required return in the office of the Collector within two months from the date of the service upon him of a notice under section 72, or within any extended time which may have been allowed by the Collector for lodging such return, shall be liable to a fine which may extend to fifty rupees for every day after expiration of such time or extended time

¹ Section 72 A was inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 16, in Vol. III of this Code.

~~of 1880.]~~

*(Part II.—Mode of Assessment.—Chapter V.—Valuation,
Assessment and Levy of Cesses on Mines, Railways and other
Immovable Property.—Secs. 73-76.)*

until such return is furnished, or until the annual net profits of the property in respect of which the notice has been served shall have been otherwise ascertained and determined by the Collector as hereinafter provided.

(2) The amount of such fine accruing due from time to time may be levied by the Collector as provided in section 98 or section 99, and the fact of an appeal against such fine being pending shall not avail to prevent the levy of any such fine pending the disposal of the appeal, unless the Commissioner otherwise directs.

(3) Whenever the amount levied in respect of any such fine exceeds five hundred rupees, the Collector shall report the case specially to the Commissioner; and no further levy for such default shall be made otherwise than by authority of the Commissioner.

73. Whenever any property assessable under this Chapter lies in two or more districts, the notice to furnish a return under section 72 shall be served on the owner, chief agent, manager or occupier of such property by or through the Collector of the district in which such owner, chief agent, manager or occupier may reside or have his chief place of business, and one return for the whole of such property shall suffice.

When property lies in different districts.

74. Whenever any property assessable under this Chapter lies partly within and partly outside the territories administered by the Lieutenant-Governor of Bengal¹, the return furnished as required by section 72 shall state the total annual net profits calculated as aforesaid accruing from such property, and also the proportion of such profits which may reasonably be calculated to accrue in the territories administered by the Lieutenant-Governor of Bengal.¹

When property is part in and part outside Bengal.

75. If such return be not furnished within the period of two months from the date on which such notice was served, or within any extended time allowed by the Collector of the district, or if such Collector shall deem that any return made in pursuance of such notice is untrue or incorrect, such Collector shall proceed to ascertain and determine by such ways or means as to him shall seem expedient the annual net profits of such property calculated as aforesaid.

If return not furnished or incorrect, Collector to make valuation.

76. If such Collector be unable to ascertain the annual net profits as aforesaid of any property assessable under this

Valuation of value of property.

¹ This includes the present Presidency of Fort William in Bengal and other territory.

[*Ben. Act 9*]

(*Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Secs. 77-81.*)

Chapter, he may, by such ways or means as to him shall seem expedient, ascertain and determine the value of such property, and shall thereupon determine six *per centum* on such value to be the annual net profits thereon.

Cost of valuation from whom to be recovered.

77. The expenses incurred in making any valuation under section 75 or section 76 may be recovered together with all costs of the recovery thereof as provided in section 98 from the person who was bound to make such return or who made the incorrect return.

Notice of valuation.

78. So soon as such Collector shall have ascertained and determined the annual net profits as aforesaid of any such property, he shall cause to be served upon the owner, chief agent, manager or occupier of such property a notice informing him of the amount of the annual net profits so ascertained and determined by him.

Valuations under this Chapter to be annual.

79. New valuations under this Chapter shall be made by the Collector of the district every year, and such Collector may for that purpose cause such notices to be issued and served, and such returns to be made, and shall have such powers and authorities as are in this Part mentioned and conferred:

Declaration of annual net profits by owner for five years.

Provided that, whenever any return made under section 72 shall be accepted by the Collector for any year, the owner, chief agent, manager or occupier of such property may, if he see fit, declare in writing at the time of such acceptance that the annual net profits set forth in such return may, for the purposes of this Act, be deemed to be the annual net profits for each of the five years then next ensuing;

Effect of acceptance by Collector of declaration.

and, if the Collector of the district shall agree to accept such declaration, no new valuation shall be made of such property until the said five years shall have expired.

Notice of rate of cess and dates of payments.

80. When the rate of road cess and public works cess to be levied in the district upon property assessable under this Chapter shall have been determined for any year as in this Act provided, the Collector of the district shall cause to be served on the owner, chief agent, manager or occupier of every such property a notice showing the amount of road cess and public works cess respectively payable in respect of such property, and specifying the date from which such cesses shall take effect.

And such amount shall be payable by such owner, chief agent, manager or occupier to such Collector in two equal instalments—the first on the expiry of six months, the second on the expiry of nine months, after the date fixed as hereinbefore provided for the commencement of the year.

Recovery by occupier or owner who has paid instalments.

81. In any case in which the occupier of such property is a different person from the owner, and has paid in excess of half of the sum due as road cess and public works cess on account of any instalment, such occupier shall be entitled to deduct

of 1880.]

(Part II.—Mode of Assessment.—Chapter V.—Valuation
Assessment and Levy of Cesses on Mines, Railways and
other Immovable Property.—Secs. 82, 83.)

the amount of such excess from the next and subsequent instalments of rent payable in respect of such property; and every owner who has paid in excess of half of such sum due shall be entitled to recover the amount of such excess from the occupier:

Provided that in no case shall an occupier deduct from his annual rent more than half of the rate of the road cess and public works cess on every rupee thereof.

Determin-
ation of pro-
portion of
profits when
property in
different
districts.

¹ 82. The total of the cesses payable in respect of property assessable under this Chapter owned or occupied by the same person in two or more districts shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion in which the ² District Road Funds of such districts shall be severally entitled thereto, as provided in the section next following.

¹ 83. Whenever any property assessable under this Chapter lies in two or more districts, the Lieutenant-Governor ³ shall from time to time determine, out of the total annual net profits stated in the return, or in the valuation of such profits accruing in the territories subject to him, and ascertained in any manner as aforesaid, the proportions in which such pro-

² 82. The total of the cesses payable in respect of property assessable under this Chapter owned or occupied by the same person in two or more districts shall be payable to the Collector of the district where the owner, chief agent, manager or occupier may reside or have his chief place of business, and shall be by him transmitted to the Collectors of other districts in the proportion in which the Committees of such districts shall be severally entitled thereto, as provided in the section next following.

¹ 83. Whenever any property assessable under this Chapter lies in two or more districts, the Lieutenant-Governor ³ shall from time to time determine, out of the total annual net profits stated in the return, or in the valuation of such profits accruing in the territories subject to him, and ascertained in any manner as aforesaid, the proportions in which such pro-

How distrib-
uted when
property in
different
districts.

Determination
of proportion
of profits
when prop-
erty in
different
districts.

¹ Sections 82 and 83 are in force in this form in all areas in Bengal in which the Act is in force, except the Darjeeling District.

The differences in the sections as in force in the Darjeeling district and elsewhere lie in the words printed in italics.

² Sections 82 and 83 are in force in this form in the Darjeeling district.

³ These words "District Road Funds" were substituted for the word "Committees," in s. 82, by the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 2, *post*, p. 808.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

[Ben. Act 9]

(Part II.—Mode of Assessment.—Chapter V.—Valuation, Assessment and Levy of Cesses on Mines, Railways and other Immovable Property.—Chapter VI.—Special Provisions for [Orissa and] Midnapore.—Secs. 84-87.)

erty shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the ¹*District Road Fund* of each district concerned.

erty shall be assessed in each of the said districts respectively, and the proportion of the road cess due thereon which shall be assigned to the *Committee* of each district concerned.

Service of
notices under
this Chapter.

84. Every notice under this Chapter may be served—

- (a) by leaving it at the registered office (if any) of such owner, chief agent, manager or occupier aforesaid; or
- (b) by sending it by post in a letter addressed to such owner, chief agent, manager or occupier at his office, or, if he have more offices than one, at his principal office; or
- (c) by giving it to such owner, chief agent, manager or occupier.

CHAPTER VI.

SPECIAL PROVISIONS FOR [Orissa and] MIDNAPORE.

Collectors in
[Orissa and]
Midnapore
may order
certain
revenue-free
estates to be
annexed to
other estates
for purposes
of payment
of cess.

Notice to be
given to holder
of estate
to which such
revenue-free
estate is
annexed.

85. [In any district of the Province of Orissa and] in the district of Midnapore, the Collector may at any time, with the sanction of the Commissioner, order that any revenue-free estate not exceeding five hundred standard *bighas* in extent, of which the valuation shall have been completed, shall, for the purpose of payment and levy of the cesses due in respect thereof, be annexed to any other estate within the ambit of which it is situate or which it adjoins.

86. Notice of such order shall be given by the Collector to the holder of the estate to which such revenue-free estate is ordered to be so annexed, and to such notice shall be appended a copy of the valuation-roll of the said revenue-free estate, and thereupon such holder shall be liable to pay annually to the Collector, on account of such revenue-free estate, road cess and public works cess at one-half of the rates, which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

87. Notice of such order shall also be given by the Collector to the holder of the said revenue-free estate, and such notice shall require him to pay annually, and he shall thereupon be bound to pay to the holder of such other estate road

Notice to be
given to
holder of
revenue-free
estate.

¹ These words "*District Road Fund*" were substituted for the word "*Committee*", by the Bengal Local Self-Government Act of 1885 (Ben. Act 3 of 1885) s. 2, post, p. 906.

of 1880.)

(Part II.—Mode of Assessment.—Chapter VI.—Special Provisions for [Orissa and] Midnapore.—Chapter VII.—Miscellaneous.—Secs. 88-91.)

cess and public works cess at the full rates which may be fixed under this Act for the levy of the said cesses respectively in the district generally for each year.

88. Such cesses shall be so payable by the holder of the said revenue-free estates in two equal instalments, on such dates as may be fixed by the Lieutenant-Governor¹ under section 42 for the payment of cess by the holders of revenue-free estates, or in such other instalments and on such other dates as the Lieutenant-Governor¹ may direct, or, if the Lieutenant-Governor¹ shall so order, the whole amount so payable on account of such cesses for each year shall be payable in a single sum on any such date as the Lieutenant-Governor¹ may appoint.

Cesses payable by holder of revenue-free estate in such instalments as Lieutenant-Governor may direct.

In default of payment as hereby required, the provisions of section 47 shall be applicable.

89. Whenever the service of a notice on the holder of a revenue-free estate is required by the provisions of section 40, the Collector shall cause such notice to be served, notwithstanding that the revenue-free estate may have been annexed to another estate as hereinbefore provided :

Notices to be served.

and the Collector shall further cause a notice containing the same particulars to be served in respect of such revenue-free estate on the holder of the other estate to which it is under the provisions of section 85 annexed.

90. The Collector may at any time, with the sanction of the Commissioner, revoke any order passed under section 85, and shall give notice of such revocation both to the holder of the revenue-free estate affected and to the holder of the other state to which such revenue-free estate was annexed.

Collector may revoke orders passed under section 85.

CHAPTER VII.

MISCELLANEOUS.

91. The Collector, with the sanction of the Board of Revenue², may appoint such establishments as may be required for making valuations and re-valuations under this Act, for making collections, recovering arrears, keeping accounts connected therewith, and generally for all purposes connected with such valuations, re-valuations, collections and recoveries, and other purposes of this Act, and may incur such other expenses as are requisite for such purposes ;

Collector may appoint certain establishments.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918).

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—Secs. 91A-95.)

and the payment of such establishments and other charges on bills signed by the Collector shall be the first charge on the District Road Fund.

Payment of
commission to
tahsildars.

91A. The Collector may, with the sanction of the Commissioner, pay to any person appointed by him to collect the road cess and public works cess such percentage of the total amount collected by such person as to him may seem fit.

Powers of
Collector in
making
valuation.

92. For the purpose of making any valuation of lands directed by this Part, the Collector shall exercise the powers vested in Collectors by clause 1 of section 23 and clause 1 of section 24 of Regulation 7 of 1822¹, except so far as the said clauses authorize any inquiry into rights or interests attaching to such lands.

Commissioner
or Board may
revise valuation.
False returns.

93. Every valuation under this Part shall be open to revision by the Commissioner or Board of Revenue², and not otherwise.

94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly.

94. Any person who is bound to make any return under this Part shall be deemed to be legally bound to give notice and to furnish information to a public servant in respect of the same.

False returns.

If the Collector shall see ground for believing that any return made is false, he may prosecute the maker accordingly.

And, if the person so prosecuted is convicted, the Collector may proceed to make a valuation of the lands mentioned in such return, by such ways and means as to him shall seem expedient.

Returns
evidence
against the
maker only.

95. Every return filed by or on behalf of any person in pursuance of the provisions of this Part shall bear the signature and address of such person, or his authorized agent, and

¹ Section 91A was inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 16, in Vol. III of this Code.

² The Bengal Land-revenue Settlement Regulation, 1822. It is printed in Vol. I of this Code.

³ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913).

⁴ Section 94 is in force in this form in Western Bengal.

⁵ Section 94 is in force in this form in Eastern Bengal.

The difference in the section as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

⁶ The words in italics printed opposite were repealed, in Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 17, and are here omitted.

or 1880.]

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—Secs. 96-98.)

shall be admissible in evidence against such person, but shall not be admissible in his favours.

96. Every notice under this Part required to be served, except as otherwise expressly provided, may be served—

Service of notices under this Part.

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person resides, or by delivering the said notice to any agent authorized to appear generally for the person to whom such notice is directed; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to reside; or
- (3) by posting a copy of the notice at the *mâl-cutcherry* of the estate or tenure to which the notice relates, or, if no such *mâl-cutcherry* be found, on some conspicuous place on such estate or tenure; and, in the case of estates paying their annual revenue by four instalments, by delivering another copy thereof to the agent who shall have paid an instalment of revenue next after the preparation of such notice. In all cases where two or more persons are holders of an estate or tenure, service of notice under this clause shall be deemed to be good and sufficient service on each and all of such persons.

97. The costs of service of every notice and process by this Act required to be served shall in the first instance be defrayed from the District Road Fund, and, subject to such rules as may be made by the Board of Revenue¹ under section 106, shall be recoverable either from the person to whom such notice or process is addressed, or from the person owing to whose default such notice or process is issued, as the Collector may think fit; and every such amount shall be deemed to be due to the Collector, but when levied by the Collector shall be credited to the District Road Fund:

Costs of service.

Provided that no costs or other expenses whatever shall be recovered from any person in respect of the publication or issue of any proclamation or notice calling for any return or giving intimation of any amount payable by any person as cess under this Act other than notices of demand to pay any amount of cess which has become due.

No costs to be recovered for certain notices.

98. Every amount due, or which may become due, to any Collector under the provisions of this Act in respect of any arrears of cess, of any expenses incurred, of any fee or costs

Dues under the Act to be levied as public demand.

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913).

² Section 98 is also applicable to the recovery of fines imposed under s. 18 and certain other sums—see ss. 18 and 77, *supra*, pp. 540 and 570.

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—Sec. 99.)

payable, of any notices served, of any fines imposed, or on any other account, may be realized by such Collector by any process provided by any law¹ for the time being in force for the realization of public demands; and shall be deemed to be a public demand under such law:

² Provided that the '*District Road Fund*' shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

³ Provided that the '*District Road Committee*' shall indemnify the Collector of the district for all expenses incurred, and for all costs and damages for which such Collector may become liable (whether in connection with suits before the Civil Courts or otherwise) in respect of any proceedings for the recovery of any such dues as aforesaid.

Collector may
recover dues
out of rent.

⁴ 99. Instead of proceeding as provided by last preceding section for the recovery of any sum due under this Act, or if after so proceeding the Collector shall have failed to find property belonging to the person from whom any such sum is due, by the sale of which such sum may be fully recovered, the Collector may, if he see fit, after recording his opinion to that effect, cause a notification in form in Schedule F contained to be issued for the estate or tenure in respect of which any such amount is due.

Such notification shall be published by beat of drum in every village containing any land to which such notification relates, and a copy thereof shall be posted in a conspicuous place in every such village and at the *mal-cutcherry* of the estate or tenure to which such notification relates, if such *cutcherry* be found.

Every payment of rent, save and except to the Collector or some person by him thereunto appointed, made after such publication, until further order from the Collector, shall be null and void:

and the Collector may recover by any process of law for the time being in force, by which he might recover rent due to the Government from a tenant in an estate which is managed directly by the Collector, the rent then or thereafter to become due from any occupier, tenure-holder, under-tenant or *raiayat*

¹ See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918), in Vol. III of this Code.

² This proviso is in force in this form in all areas in Bengal in which the Act is in force, except the Darjeeling district.

The difference in the proviso as in force in the Darjeeling district and elsewhere lies in the words printed in italics.

³ This proviso is in force in this form in the Darjeeling district.

⁴ These words "*District Road Fund*" were substituted for the words "*District Road Committee*" by the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 2, post, p. 308.

⁵ Section 99 is also applicable to the recovery of fines imposed under s. 18—see the latter section, ante, p. 540.

of 1890.]

(Part II.—Mode of Assessment.—Chapter I A I.—Miscellaneous.—Secs. 100-102.)

on the estate or tenure in respect of which the notification has been issued, until the amount due to the Collector together with all costs shall be satisfied, whereupon the said notification shall be revoked.

The receipt of the Collector in respect of all sums paid to him as rent or so recovered shall be, to the extent of such sums, a valid discharge in respect of rent due by the occupier, tenureholder, under-tenant or *raiyyat* to whom such receipt is given.

In case the Collector shall see fit so to proceed, the claim for arrears of road cess and public works cess due from any estate or tenure in respect of which a notification has been issued as above provided shall have priority over any other demand or claim or lien existing thereupon other than the demand of Government revenue.

Collector's claim to have priority.

100. The Lieutenant-Governor¹ may at any time invest any person with the powers of a Collector under this Part to be exercised by such person under the control or supervision of the Collector, or independently of such control and supervision, as the Lieutenant-Governor¹ shall direct.

Lieutenant-Governor may invest any person with Collector's powers.

101. The Collector may, with the sanction of the Commissioner, delegate all or any of his powers and functions under this Part to be exercised, under the control and supervision of the Collector, by any Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer of like rank :

Collector may delegate powers.

Provided that every order passed by such Deputy Collector, Assistant Collector, Sub-Deputy Collector or other officer shall be appealable to the Collector within fifteen days of such order being passed.

102. Every person who shall deem himself to be aggrieved by any valuation made by a Collector under the provisions of section 75 or 76 may, within one month after the issue of the notice mentioned in section 78,

Appeals against valuation.

'and,' *subject to anything contained in Chapter IIA,* every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this Part, 'and every person who shall deem himself to be aggrieved by any valuation made by the Collector under the provisions of any other section of this Part,

may, within one month after the posting up of a copy of the valuation-roll as mentioned in section 35,

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² This clause of section 102 is in force in this form in Western Bengal.

The difference in the clause as in force in Western Bengal and in Eastern Bengal, respectively, lies in the words printed in italics.

³ These words in italics were inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act. 4 of 1910), s. 18, in Vol. III of this Code.

⁴ This clause of section 102 is in force in this form in Eastern Bengal.

(Part II).—Mode of Assessment.—Chapter VII.—Miscellaneous—Secs. 103-105.)

prefer his objections to the Collector;
and, if such objections, or any of them, are disallowed, may, within one month of such disallowance, appeal to the Commissioner against such valuation, and the decision of the Commissioner shall be final.

Orders for
levy of fine
appealable.

103. Every order for the levy of a fine or of expenses passed by a Collector under this Act shall be appealable to the Commissioner within one month from the service of the first process for the levy of such fine or expenses. Except as otherwise provided in section 18, pending such appeal, and until the order of the Commissioner, which shall be final, all process for such levy shall be discontinued.

Orders appeal-
able to Com-
missioner.

104. Every order passed by the Collector under sections 19, 20, 26,¹ 46 (2), 50, 51, 53, 85, 98 or 99 shall be appealable to the Commissioner within one month from the date of such order.

104. Every order passed by the Collector under sections 19, 20, 26, 50, 51, 53, 85, 98 or 99 shall be appealable to the Commissioner within one month from the date of such order.

Orders appeal-
able to Com-
missioner.

Revision of
orders by
Collector, and
control and
supervision by
Commissioner
and Board.

105. Notwithstanding anything hereinbefore contained,—

105. Notwithstanding anything hereinbefore contained,

Collector's
proceedings
subject to
supervision of
Commissioner
and Board.

(a) *the Collector may at any time revise any order made under this Part by himself or by any officer subordinate to him, unless an appeal against such order has been preferred, and*

(b) all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general

all proceedings of the Collector or of any officer of a lower grade under this Part shall be subject to the general control and supervision of the Commissioner and of the

¹ Section 104 is in force in this form in Western Bengal.

The only difference in the section as in force in Western Bengal and in Eastern Bengal, respectively, lies in the figures printed in italics.

² Section 104 is in force in this form in Eastern Bengal.

³ These figures "46 (2)", in s. 104, were inserted, for Western Bengal, by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 19, in Vol. III of this Code.

⁴ Section 105 is in force in this form in Western Bengal, having been substituted by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 20 (in Vol. III of this Code), for the section printed opposite to it.

The differences in section 105 as in force in Western Bengal and in Eastern Bengal, respectively, lie in the matter printed in italics.

⁵ Section 105 is in force in this form in Eastern Bengal.

of 1880.]

(Part II.—Mode of Assessment.—Chapter VII.—Miscellaneous.—Secs. 106, 107.)

control and supervision of the Commissioner and of the Board of Revenue¹, and all proceedings of the Commissioner shall be subject to the general control and supervision of the Board of Revenue¹.

under this Part shall be subject to the general control and supervision of the Board of Revenue¹.

106. The Board of Revenue¹ may from time to time make, and, when made, from time to time alter, add to or cancel, any rules²—

- (a) prescribing forms for the notices, returns and valuation-rolls required by this Part to be issued or made;
- (b) prescribing the amounts which shall be levied in respect of the issue of each notice and process under this Part, and regulating the recovery thereof under section 97;
- (c) prescribing the amount of copying fee to be levied in respect of supplying extracts and copies of returns and valuation-rolls as provided in section 34;
- (d) apportioning the amount of the cesses for the payment of which the respective holders of the several shares of an estate in respect of which separate accounts are kept shall be primarily liable under section 44;
- (e) regulating the opening, keeping and closing of separate accounts in respect of amounts of cess payable by recorded shareholders in revenue-free estates as provided in section 46;
- (f) regulating the proceedings of the Collectors under Chapter V;

and otherwise providing for the proper execution of this Act in respect of valuations of the assessment and of the levy of the cesses and other sums due under the same.

107. Nothing in this Part contained, and nothing done in accordance with this Act, shall be deemed to affect the rights of any person in respect of any immovable property or of any interest therein except as otherwise expressly provided in this Act.

All rights in immovable property saved unless affected by this Act.

¹ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1918 (Ben. Act 2 of 1918.)

² For rules made under section 106 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol I, Pt. VI.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and Application of the District Road Fund.—Secs. 108, 109.)

Part III.—Constitution and Administration of the District Road Fund.

CHAPTER VIII.

CONSTITUTION AND APPLICATION OF THE DISTRICT ROAD FUND.

Constitution
of District
Road Fund.

¹**108.** The District Road Fund of every district under this Act shall consist of the amount produced by the road cess,

of all sums levied or recovered as fines, penalties or otherwise in respect of the cesses under this Act ²[not being interest levied in respect of public works cess.]

of all sums assigned by the Government thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise,

“ ”

²**108.** The District Road Fund of every district under this Act shall consist of the amount produced by the road cess,

of all sums levied or recovered as fines, penalties or otherwise in respect of the cesses under this Act ³[not being interest levied in respect of public works cess.]

of all sums assigned by the Government thereto, whether as a contribution from the proceeds of the public works cess towards the expenses of assessing and collecting such cess jointly with the road cess or otherwise, and

of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed.

Constitution
of District
Road Fund.

Application
of District
Road Fund.

¹**109.** The District Road Fund of every district shall be

⁶**109.** The District Road Fund of every district shall be

Application
of District
Road Fund.

¹ Section 108 is in force in this form in all areas in Bengal in which the Act is in force except the Darjeeling district.

² Section 108 is in force in this form in the Darjeeling district.

The difference in the section as in force in the Darjeeling district and elsewhere lies in the words printed in italics.

³ These words in square brackets in s. 108 were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 10, post, p. 619.

⁴ The words in italics printed opposite were repealed (except in the Darjeeling district) by the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 2, and are omitted.

⁵ This section 109 [except the portion printed within square brackets] was substituted for the original section 109 by the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 2, and is in force in this form in all areas in Bengal in which the Act is in force, except the Darjeeling district.

The difference in section 109 as in force in the Darjeeling district and elsewhere lies in the words printed in italics.

⁶ Section 109 is in force in this form in the Darjeeling district.

of 1880.]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Sec. 109.)

applicable to the following objects and in the following order:—

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector under section 91.

Secondly.—To the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act.

And the balance after payment of such expenses, shall be credited to the District Fund of the district² [and shall be applicable to the following objects, and in the following order, namely:—

(a) the payment of any sums which the District Board may, under the Bengal Local Self-Government Act of 1885,³ from time to time have undertaken to pay as interest on loans raised for expenditure on any of the objects to which the District Road Fund is applicable, and the repayment of such loans;

applicable to the following objects and in the following order:—

Firstly.—To the payment of the cost of establishments entertained and expenses incurred by the Collector as mentioned in section 91;

to the indemnification of the Collector, with the sanction of the Commissioner, for any other costs or damages which he may have incurred, or for which he may have become liable, in the course of the proceedings for the assessment and collection of the cesses under this Act;

and to the payment of such sums as may be determined by the Lieutenant-Governor¹ for the purposes mentioned in section 181, subject to the limit imposed in that section:

Secondly.—To the payment of establishments entertained and expenses incurred by the District Road Committee for the purposes of this Act, and of any leave-allowances, gratuities or pensions which may be payable under this Act;

Thirdly.—To the payment of any sums which the Committee may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication

Ben. Act 3 of 1885.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 4, and Sch. D, item 1, in Vol. of this Code.

² The portion of this section 109 on this page and page 562 which is enclosed in square brackets were added by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 64. The said Act was extended to Eastern Bengal by Ben. Act 1 of 1914, s. 3, Sch. I.

³ Printed post, page 907.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Sec. 109.)

- (b) the payment of the percentage referred to in clause Thirdly of section 53 of the said Act; within the district or between the district and adjacent districts;
- (c) the payment of such of the salaries, pensions, gratuities, grants and percentages referred to in clause Fourthly of the said section as are required for members of establishments employed for improving the means of communication within the district or between the district and other districts; Fourthly.—To the repair and maintenance of roads, bridges, water-channels and other means and appliances for facilitating communications which have been taken charge of by the Committee under this Act, or towards which they may have agreed to contribute;
- (d) the payment of such of the expenses referred to in clause Fifthly of section 53 of the said Act as are incurred in improving the means of communication within the district, or between the district and other districts, or in carrying out the provisions of section 79 of the said Act; Fifthly.—To the construction of new roads, bridges, water-channels and other means of communication; to the construction, provision, repair and maintenance of any means and appliances for facilitating communication within the district or between the district and adjacent districts which the committee may determine to construct or to take charge of, or towards which they may determine to contribute;
- (e) the payment of the expenses referred to in clause Seventhly of section 53 of the said Act; and to the planting of trees by the roadside; and to the construction, and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage; and
- (f) the making of investments referred to in clause Eighthly of the said section 53.] Sixthly.—To investment in any local debenture loans issued by the Government of India or the Lieutenant-Governor¹ for the construction of productive works, which may directly improve the means of communication

¹ Now the Governor in Council of Fort William in Bengal,—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (7 of 1913), s. 3, and Sch. D, item 1, in Vol. I of this Code.

of 1880.]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Sec. 109.)

within the district, or between the district and adjacent districts :

Provided—

- (1) that no sum shall be expended from the District Road Fund in the construction of any channel for the purposes of irrigation, or for the purposes of drainage connected with any irrigation-works in charge of public officers, or for the improvement or maintenance of any water-channel on which tolls are levied, when the proceeds of such tolls are not paid into the District Road Fund; Proviso.
- (2) that no part of the District Road Fund of any district shall be applied to the construction or maintenance of any road within any first or second class municipality under the Bengal Municipal Act, 1876,¹ unless such road shall have been expressly excluded from the operation of the said Act under section 32 thereof; Ben. Act 5 of 1876. and
- (3) that no part of the District Road Fund of any district shall be

¹ Ben. Act 5 of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), and this reference should now be taken to be made to that Act—see s. 2 thereof, post, p. 710.

[Ben. Act 9]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter VIII.—Constitution and application of the District Road Fund.—Chapter IX.—The District Road Committee—Secs. 110—112.)

expended on any work or for any purpose without the limits of such district, unless the special sanction of the Lieutenant-Governor¹ to such expenditure shall have been obtained, as being for the benefit of the district charged.

Committee may guarantee sums for District Road Fund as interest on capital.

'110. With the sanction of the Lieutenant-Governor,¹ the Committee may from time to time undertake to guarantee the annual payment from the District Road Fund of such sums as they shall think fit, as interest on capital expended on any works which may directly improve the means of communication within the district, or between the district and other districts.

Lieutenant-Governor may apportion costs of works extending over more than one district.

'111. Whenever any works to which any portion of the road fund of any district is applicable under the last preceding section extend over more than one district, the Lieutenant-Governor¹ may decide the proportions in which the road fund of each district concerned shall contribute towards the cost or interest upon the cost of such works.

CHAPTER IX.

THE DISTRICT ROAD COMMITTEE.

Constitution of District Road Committee.

'112. For the administration of the District Road Fund and for the construction, repair and maintenance of district roads, bridges, water-channels and other works as aforesaid under

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, item 1, in Vol. I of this Code.

² Sections 130 to 181 were repealed by the Bengal Local Self-Government Act of 1905 (Ben. Act 8 of 1905), s. 2, and are now in force only in the Darjeeling district.

of 1880.]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 113-116.)

this Act, the ¹[Commissioner] shall from time to time appoint, or cause to be elected, under such rules in regard to qualification, election and discharge as may by him be prescribed, any number of the payers of road cess of such district, their managers or agents, to be members of a District Road Committee.

²113. Every member of the Committee may hold office for five years from the date of his appointment or election, and the ¹[Commissioner] may at any time before the expiration of such term of five years accept the resignation of such member.

Members may hold office for five years. Resignation of member.

²114. The Lieutenant-Governor³ may remove any member appointed or elected under this Act, if such member shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct.

Removal of member.

²115. Any member who, without having obtained permission from the Committee, shall have omitted to attend six consecutive meetings of the Committee,

Member who neglects to attend meetings, or is sentenced to imprisonment, to cease to be member.

and any member who shall have been sentenced to imprisonment,

shall cease to be a member of the Committee.

²116. In addition to the members appointed, or elected as aforesaid, the Lieutenant-Governor³ may appoint⁴ any officer of Government to be a member of the Committee, and may direct⁴ by a writing signed by him, that all persons holding the offices in such writing specified shall be *ex officio* members of the Committee for any district in which they exercise the said offices, and in which this Act shall have come into force:

Appointment of *ex officio* members.

Provided that the number of members of the Committee holding salaried offices under the Government shall not be more than one-third of the total number of the Committee.

Members holding salaried offices under Government not to exceed one-third.

¹ This word "Commissioner", in sections 112 and 118, was substituted for the words "Lieutenant-Governor" by the Bengal Cess (Amendment) Act, 1910 (Ben. Act 4 of 1910), s. 21, in Vol. III of this Code.

² See footnote³ on page 584 ante.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

⁴ For a list of orders made under section 116, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

[Sec. Act: 2]

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 117-121).

Proceedings
not to be in-
validated by
reason of
excessive pro-
portion of
officials.

¹117. No act or proceedings of the Committee shall be invalidated by reason that at the time of doing such act or taking such proceedings the number of members of the Committee as then existing, who were holding salaried offices under the Government, was greater than the proportion mentioned in the last preceding section; and no act or proceedings of any meeting shall be invalidated by reason of the proportion of members holding such salaried offices as aforesaid present at the same being greater than as provided by the said section.

Their mode of transacting Business.

Chairman
and Vice-
Chairman.

¹118. The Collector of the district shall be the Chairman of the Committee, and the Vice-Chairman shall be appointed as provided in section 129.

Committee
to have an
office.

¹119. The Committee shall have an office within the district in and for which they shall have been appointed, and shall meet for the transaction of business at least once in every quarter of a year.

Two kinds of
meetings.

¹120. There shall be two kinds of meetings for the transaction of business, namely, special meetings and ordinary meetings.

What are
special meet-
ings.

¹121. Meetings of the following descriptions shall be special meetings :—

- (1) any meeting convened by the Chairman under section 123 ;
- (2) for the election of a Vice-Chairman under section 129 ;
- (3) for determining the salary of the Engineer under section 131 ;
- (4) for the election of an Engineer under section 132 ;
- (5) for determining the details of establishment, and the salaries to be attached to each office, under section 133 ;
- (6) for making rules for leave of absence under section 134, and for pensions and gratuities under section 138 ;

¹ See footnote² on page 584, ante.

or 1880.]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 122-125.)

- (7) for considering and passing the general statement under section 141 or any revised or supplemental statement under section 143;
- (8) for preparing and framing an estimate of income and expenditure, and for determining the rate of road cess for the coming year under sections 146 and 148;
- (9) for amending any such estimate under section 157;
- (10) for receiving and considering the annual report and accounts under section 179;

All other meetings shall be ordinary meetings.

¹122. The Chairman, or, in case of his absence at the time appointed for the meeting, the Vice-Chairman, shall preside at every meeting of the Committee. In the absence of both the chairman or Vice-Chairman, the members present may choose one of their number to be president of such meeting. President at meetings.

¹123. The Chairman, or, in case of his absence, the Vice-Chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing and signed by not less than one-third of the members, convene a meeting. Meeting to be called on requisition.

¹124. At least ten days' notice shall be given of every meeting. Notice of meeting.

Every notice shall state the business to be transacted at the meeting proposed to be called; and no business other than that so stated shall be transacted at such meeting, except with the permission of the meeting.

¹125. (1) No business shall be transacted at any special meeting unless at least one-fourth of the total number of members forming the Committee at the time of the meeting are present at the commencement and close of such business; and no business shall be transacted at an ordinary meeting unless at least three members are so present. Quorum.

¹ See footnote³ on page 584, ante.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 126, 127.)

Delegation of powers to Sub-Committee.

(2) The Committee may delegate any of their powers to Sub-Committees consisting of such member or members of their body as they think fit.

Any Sub-Committee so formed shall, in the exercise of the powers delegated, conform to any regulations that may be imposed on them by the Committee.

Adjournment, voting, etc., of Committee.

(3) The Committee may hold meetings and adjourn as they think proper.

Questions at any meeting shall be determined by a majority of votes of the members present, and, in case of an equal division of votes, the president shall have a second or casting vote.

Adjourned meeting.

¹126. If at the time appointed for a special meeting, or within one hour thereafter, a quorum is not present, the meeting shall stand adjourned till some future day to be appointed by the Chairman or Vice-Chairman of the Committee, and ten days' notice of such adjourned meeting shall be given.

The members present at such adjourned meeting shall form a quorum, whatever their number may be.

Minute-book to be kept.

²127. The minutes of the proceedings of every meeting shall be recorded in a book to be kept for that purpose in the office of the Committee, and any person resident in, or owning or holding land in, the district may at all reasonable times inspect and examine such book without payment of any fee, and may obtain a certified copy of any extract therefrom on payment of such fees as the Lieutenant-Governor³ may direct.

At the request of any member of the Committee who is not acquainted with the English language, the Chairman shall cause to be delivered to such member an abstract of the minutes of any meeting in the vernacular of the district.

¹ See footnote² on page 584 ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

of 1880.]

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 128, 129.)

¹128. All correspondence between the Committee and the Lieutenant-Governor¹ shall pass through the office of the Commissioner, who in all things under this Part shall be subject to the control and supervision of the Lieutenant-Governor².

Correspondence between Committee and Lieutenant-Governor.

The Committee shall furnish the Lieutenant-Governor² and the Commissioner respectively with any information for which they may call, connected with the duties imposed upon them by this Act.

Committee to furnish information.

Their Vice-Chairman, Engineer and Establishment.

¹129. The first meeting of the Committee shall be convened by the Chairman at such time as he shall think fit, and shall proceed to nominate one of the members of the Committee to be Vice-Chairman of the Committee, and shall submit to the Lieutenant-Governor² the name of the person so nominated; whereupon the Lieutenant-Governor² may, if he think fit, appoint such person to be Vice-Chairman of the Committee, or may require the Committee to nominate and to submit to him the name of some other person, and whenever the office of Vice-Chairman shall be vacant a Vice-Chairman shall be nominated and appointed in the manner above mentioned:

Appointment of Vice-Chairman.

Provided that whenever the office of Vice-Chairman shall become vacant, the Chairman, may, with the approval of the Commissioner, appoint any member of the Committee to be Vice-Chairman thereof *ad interim* until the vacancy shall have been filled up by appointment as above provided.

Vice-Chairman may be appointed *ad interim*.

The Vice-Chairman may hold office for a period not exceeding two years, and at the expiration of that time may be re-nominated by the Committee and re-appointed to the office by the Lieutenant-Governor².

Vice-Chairman may hold office for two years.

¹ See foot-note * on page 584, *ante*.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, Item 1, in Vol. I of this Code.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 130-132.)

Removal of
Vice-Chair-
man.

¹130. The Lieutenant-Governor² may, if he think fit, upon the recommendation of two-thirds of the members voting at any special meeting, remove the Vice-Chairman, and any member entitled to vote may give a proxy in writing to any other member for the above purpose.

Proxies
allowed.

Such proxy shall be produced at the time of voting, and shall entitle the member to whom it is given to vote as authorized by the tenor of such proxy.

Salary of
District
Engineer.

¹131. The Committee at a special meeting shall determine the salary which they are prepared to give to the District Engineer, and shall report the same to the Lieutenant-Governor², who may approve of such salary, or require the committee to increase or to reduce the same. In determining such salary regard shall be had in each district to the character of the works and the nature of the duties required therein. The salary so determined and approved may from time to time be altered by the Committee with the approval of the Lieutenant-Governor².

Appointment
of Engineer.

¹132. (1) Whenever the office of District Engineer shall be vacant, the Committee shall represent the occurrence of such vacancy to the Lieutenant-Governor² who shall thereupon cause a list of qualified officers not being less than three in number to be laid before the Committee, and the Committee shall proceed to elect a District Engineer from the persons named in such list.

Existing
appointments
to hold good
for two years
only.

(2) All appointments of District Engineers existing at the time of the commencement of this Act shall hold good for a period not exceeding two years from such commencement, and on the expiration of such time every office of District Engineer to which the last appointment shall have been made before the commencement of this Act shall be deemed to be vacant, and a District Engineer shall be appointed in manner above prescribed :

¹ See foot-note * on page 584 ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, item 1, in Vol. I of this Code.

of 1880.]

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 133, 134.)

Provided that, if the Lieutenant-Governor¹ and the Committee are satisfied that no change is required, any person holding the appointment of District Engineer at the time of the commencement of this Act may, with the sanction of the Lieutenant-Governor¹, be re-appointed by the Committee to be District Engineer.

(3) The District Engineer may be suspended, removed or dismissed from his office by the Lieutenant-Governor.¹

Engineer may be suspended or dismissed by Lieutenant-Governor. Establishments and salaries how to be fixed.

'133. The Committee, subject to the limit of cost imposed by section 135, may, with the sanction of the Commissioner, determine, and from time to time alter, the details of the establishment of officers (other than the District Engineer), clerks and servants to be employed by them or by any Branch Committee as hereinafter appointed, and the salary to be paid to each such officer, clerk or servant:

Provided that no salary exceeding Rs. 200 a month shall be attached to any office without the express sanction of the Lieutenant-Governor.¹

Appointments to offices on the establishment so determined shall be made as follows:—

Appointment how to be made.

to every office of which the salary does not exceed Rs. 50 *per mensem* by the Chairman of the Committee or of the Branch Committee, as the case may be;

to every office of which the salary exceeds such amount, by the Committee or the Branch Committee, as the case may be, with the approval of the Commissioner.

Any such officer, clerk or servant as aforesaid may be suspended or dismissed by the authority appointing him, subject to an appeal to the Commissioner, whose decision shall be final.

'134. The Committee shall make such rules as to leave of absence and absentee allowances as they from time to time may think fit for their own officers and servants, as well as for those of any Branch Committee:

Leave of absence to officers.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.
² See footnote ² on page 584, ante.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee—Secs. 135-138.)

Provided that, in the case of District Engineer drawing a salary of Rs. 200 or upwards *per mensem*, leave of absence on medical certificate may be granted by the Lieutenant-Governor¹ in accordance with the rules contained in Supplement F of the Civil Leave Code, or any other rules² for the time being in force for uncovenanted officers of Government, and that no other leave of absence shall be granted to a District Engineer by the Committee without the sanction of the Lieutenant-Governor.³

Salaries not to exceed one-fourth of income.

135. The aggregate salaries and absentee allowances of the Engineers, officers, clerks and servants aforesaid, entertained by any District Road Committee and by all Branch Committees in any district, together with the expenses of the Collector's establishments under section 91, and the amount which such District Road Committee is required to pay under section 181, shall not for any one year, without the express sanction of the Lieutenant-Governor,¹ exceed one-fourth of the income of the Committee for the said year, exclusive of the balance of the previous year.

Appointment of Divisional Superintendent of Works.

136. The Lieutenant-Governor,¹ on the application of two-thirds of the committees in any division, appoint a Divisional Superintendent of Works with the necessary office establishment, for the control and supervision of the executive works establishment in all districts of such division, and may determine the proportion of the cost payable by each district in the division in respect of the same.

Appointment of Superintendent of Works for group of districts.

137. The Lieutenant-Governor¹ may, on the application of any number of districts, whether forming part of the same division or otherwise, appoint a Superintendent of Works and establishment as aforesaid for such district, and determine the proportion of the cost payable by each such district in respect of the same.

Pensions, gratuities, etc.

138. The Committee may, with the approval of the Lieutenant-Governor,¹ make rules for pensions and gratuities to be granted and paid

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 4, and Sch. D, item 1, in Vol. I of this Code.

² See now the Civil Service Regulations, 5th edition, 1910.

³ See footnote² on page 584, ante.

of 1886.]

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 139, 140.)

out of the District Road Fund to their officers and servants, and to those of any Branch Committee, and to the members of any establishment appointed by the Collector of the district under section 91, and may from time to time, with such approval, repeal, alter or add to such rules:

Provided that no officer shall be entitled to any pension or gratuity under this Act from the road fund of any district in respect of any period during which he was not serving under the Committee of such district, or under the Collector of such district on an establishment entertained under section 91 for the purposes of this Act:

Provided also that no officer lent by Government and contributing from his salary to any pension fund shall be entitled to claim any pension from the District Road Fund.

THEIR FUNCTIONS.

¹139. The Committee may, through their Chairman or Vice-Chairman, enter into and execute any contract necessary for the purposes of this Act: Mode of executing contracts.

Provided that every contract made on behalf of the Committee in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the Committee and shall be in writing and signed by at least two of the members of the Committee, one of whom shall be the Chairman or Vice-Chairman.

Unless so executed, such contract shall not be binding on the Committee.

¹140. No member, officer or servant of the Committee shall be in anywise pecuniarily interested in any contract or work made with, or executed for, the Committee; and, if any such member, officer or servant be so interested, he shall be incapable of afterwards continuing to be a member of the Committee or holding or continuing in any office or employment under the Committee, and shall be liable on conviction thereof to a fine of five hundred rupees: Penalty on members and officers being pecuniarily interested in contracts.

¹ See footnote ² on page 584, ante.

[**Sec. Act 9**]

(*Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 141-143.*)

Exception.

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any Company incorporated by Act of Parliament or by Royal Charter or otherwise, or registered under any Act for the registration of joint stock companies, passed by the Parliament of the United Kingdom, or by any Indian Legislature, which may enter into any contract with the Committee, or execute any work for the Committee, if such person shall, at or before the time of any such contract being made or tendered for, declare to the Committee the extent of his interest in such Company, and, if he be an officer or servant of the Committee, obtain the sanction of the Committee to his continuing to be such officer or servant.

Statement of
communica-
tions to be
prepared.

¹141. On the commencement of this Act in any district or part of a district, the Vice-Chairman, within three months after his election, shall cause to be prepared a general statement of the roads, bridges, water-channels and other means of communication to be brought within the operation of this Act within the three years then next ensuing, and the Committee shall, at some meeting to be held within one month after the submission of such statement or at any adjourned meeting, take such statement into consideration, and may pass such statement, or may make such alteration or addition therein as it shall think fit.

Such statement shall be prepared with due advertence to the provisions of section 109.

Statement to
be forwarded
to Commis-
sioner.

¹142. The Committee shall forward the statement which shall be passed as provided in the last preceding section to the Commissioner for transmission to the Lieutenant-Governor².

Supplemental
statement.

¹143. The Vice-Chairman may in any subsequent year cause to be prepared a supplemental statement of the kind mentioned in section 141 or a revised statement, and every such supplemental or revised statement shall be subject to the provisions of the last two preceding sections with respect to the statement therein mentioned.

¹ See footnote ² on page 584, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

of 1880.]

(Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 144-148.)

¹144. The Lieutenant-Governor¹ may at any time order that any road, bridge, water-channel or other means of communication as abovementioned be included in, added to, or excluded from, any statement or supplemental or revised statement prepared as mentioned in section 141 or 143.

Lieutenant-Governor may include or exclude any works in or from statement.

Estimates: Determination of the Rate for the Year, and Publication thereof.

¹145. The Collector shall, at such date as the Committee shall fix, prepare and deliver to the Committee a statement showing under separate heads the estimated proceeds for the year then next ensuing of the road cess at the maximum rate hereinbefore provided, and also of any sum and of any sources of revenue for the said year which the Lieutenant-Governor² shall have assigned to the said district, or which may be otherwise at the disposal of the Committee.

Collector to submit to Committee annual statement of estimated assets for coming year.

¹146. The Committee shall, at some meeting to be held in such month as the Lieutenant-Governor² shall determine³, prepare an estimate of the income and expenditure of the Committee for the year then next ensuing.

Annual estimate to be prepared.

¹147. Notwithstanding that any work has been included in such estimate, the Committee shall not begin the execution of any work until detailed specifications and estimates of the same have been passed, or until the execution of the work shall have been otherwise sanctioned by any authority whose sanction to the execution of such work is required under any rules made by the Lieutenant-Governor¹ on that behalf as hereinafter provided.

Works not to be executed until estimates passed or execution sanctioned.

¹148. In making the estimate of income as by the last section required, the Committee shall take into consideration any sum and the proceeds of any source of revenue which shall have been placed at their disposal by the Lieutenant-Governor², or which may otherwise

Committee to determine rate of road cess.

¹ See footnote ² on page 584, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

³ For an order made under section 148, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(*Part III.—Constitution and Administration of the District Road Fund.—Chapter IX.—The District Road Committee.—Secs. 149-151.*)

be available to them, and any unexpended balance of the District Road Fund of the previous year which is expected to be available for expenditure in the year of estimate; and shall proceed to determine the rate at which it will be necessary to levy the road cess for the last-mentioned year, so as to provide the further amount estimated to be required for expenditure in the said year.

Limit of
estimate.

¹**149.** The total amount proposed to be expended in any one year in and by any estimate prepared as required by section 146 shall not exceed the proceeds estimated to be at the disposal of the Committee for that year from the road cess, if levied within the district at the maximum rate at which such cess is leviable as mentioned in section 6, together with any sum, and the annual proceeds of any source of revenue which shall have been placed by the Lieutenant-Governor² at the disposal of the Committee, or which may be otherwise at their disposal, and with the estimated unexpended balance of the District Road Fund of the previous year as above mentioned.

Commissioner
may revise
estimate.

¹**150.** Every such estimate prepared by the Committee under section 146 shall be forwarded through the Collector of the district to the Commissioner; and the Commissioner may approve such estimate and the rate determined by the Committee.

Commissioner
may under
certain
circumstances
alter estimate.

¹**151.** If such estimate shall have been approved by any number, being less than two-thirds, of the members of the Committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make such alterations as he shall think fit in the details or total of such estimate, or may return such estimate to the committee with instructions to make any such alterations in such details or total:

Provided that the Commissioner shall not make, and shall not require the Committee to make, otherwise than with their own consent, any such alterations as shall have the effect of

¹ See footnote ¹ on page 584, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8. and Sch. D. item 1. in Vol. I of this Code.

OF 1880.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Sec. 152.)

raising the total of such estimate above the total of the sum estimated to be at the disposal of the Committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the Committee under section 148.

On receipt of such instructions the Committee shall proceed to make such alterations, and shall re-submit the estimate to the Commissioner, who shall thereupon approve of the estimate and of the rate determined by the Committee.

¹ 152. (1) If any estimate prepared under section 146 shall have been approved by any number, not being less than two-thirds, of the members of the Committee present at the meeting at which such estimate was adopted, the Commissioner may, before approving of such estimate, make a communication to the Committee, bringing to their notice any alterations which it appears to him to be desirable to make in the details or total of such estimate; and, on receipt of such communication, the Committee shall proceed to re-consider such suggestions, and may either—

Procedure where estimate has been approved by not less than two-thirds of Committee.

- (a) adopt such suggestions or any of them and revise their estimate accordingly, and, if necessary, the rate determined by them as that at which the cess shall be leviable during the coming year, and submit such revised estimate and rate for the sanction of the Commissioner; or
- (b) may adhere to their original estimate, and re-submit it to the Commissioner with their reasons for adhering to the same.

(2) On receipt of such estimate so re-submitted, the Commissioner may either sanction the estimate and rate as determined by the Committee, or may submit such estimate, together with the reasons recorded by the Committee for adhering to the same, to the Lieutenant-Governor.²

¹ See footnote * on page 564, *ante*.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Item 1, in Vol. I of this Code.

(Beng. Act 6)

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Secs. 153-155.)

When estimate is submitted by Commissioner, Lieutenant-Governor may pass orders thereon.

¹ 153. Whenever any such estimate shall be so submitted by the Commissioner, the Lieutenant-Governor² may approve of such estimate, or pass such orders as he shall think fit, in respect to the alteration of the details or of the total of such estimate :

Provided that the Lieutenant-Governor³ shall not make any such alterations, or require the Committee to make any such alterations, as shall have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the Committee for expenditure during the year in question, the cess being levied at the rate which may have been determined for such year by the Committee under section 148, unless such rate shall in the opinion of Lieutenant-Governor² be insufficient to provide for the proper maintenance of such works as are contained in the statement prepared under section 141 or 143.

If it shall appear to the Lieutenant-Governor² that the proceeds of the cess at the rate so determined will not suffice for such purpose, the Lieutenant-Governor² may order that the cess shall be levied for the year in question at such rate as he may deem sufficient for such purpose, subject to the limit in section 6 provided.

Rate determined to be reported to Lieutenant-Governor.

¹ 154. When the estimate prepared and the rate determined by the Committee shall have been approved by the Commissioner under sections 150, 151 or 152, the rate so determined and approved shall be reported by the Commissioner to the Lieutenant-Governor² who shall forthwith cause the same to be published in the Calcutta Gazette.

Rate to be published in Gazette.

¹ 155. When the Lieutenant-Governor² shall under section 153 have approved of any estimate submitted to him as provided by section 152 and of the rate determined by the Committee under section 148, or under clause (a) of section 152 in connection with such estimate, or when the Lieutenant-Governor² shall under section 153 have ordered that the cess shall be

¹ See footnote * on page 584, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, item 1, in Vol. I of this Code.

of 1880.]

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter IX.—*The District Road Committee.*—Chapter X.—*Branch Committees.*—Secs. 156-158.)

levied at any other rate, the Lieutenant-Governor¹ shall cause such rate as finally fixed by him to be published in the Calcutta Gazette.

¹156. The rate published in the said Gazette as provided in either of the last two preceding sections shall be the rate at which the road cess shall be leviable in the district for the year in respect of which such rate is so published, and the Collector of the district shall cause such rate to be published and proclaimed throughout the district and notice be given thereof as in section 40 is provided.

Rate published to be rate in force for year.

¹157. Any estimate prepared under section 146 and approved as hereinbefore provided may be amended or revised at any time with the sanction of the authority who originally approved of such estimate:

Estimates may be amended.

Provided that the total of the estimate of expenditure as amended shall not exceed the total of the sums estimated to be available for expenditure during the year.

CHAPTER X.

BRANCH COMMITTEES.

¹158. In any district to which this Act shall have been extended, the Lieutenant-Governor¹ may, in addition to a District Road Committee, form² as many Branch Committees as he shall think fit for carrying out the purposes of this Act, and shall appoint³ a Chairman and Vice-Chairman thereof, respectively, and shall define the portion of such district within which any Branch Committee shall exercise the powers conferred and discharge the duties imposed upon them by this Act:

Branch Committee.

Provided that, whenever the office of Vice-Chairman of any Branch Committee shall become vacant, the Chairman thereof may, with the approval of the Commissioner, appoint any

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

² See footnote ² on page 581, ante.

³ For an order made under section 158, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter X. *Branch Committees.*—
Secs. 159-164.)

Sections
which apply
to them.

Chairman
and Vice-
Chairman
may be
removed.

Member of
Branch
Committee
may be
additional
member of
District
Committee.

Branch
Committee's
statements.

Branch
Committee
may require
statements to
be submitted
to Lieutenant-
Governor.

Funds of
the Branch
Committee.

member of such Branch Committee to be Vice-Chairman thereof *ad interim* until the vacancy shall have been filled up by the Lieutenant-Governor.¹

'159. The provisions of sections 112 to 117 (both inclusive), 119, 122 to 127 (both inclusive), 139 and 140, respecting District Road Committees, shall apply, so far as the same are applicable, to such Branch Committees.

'160. The Lieutenant-Governor¹ may remove the Chairman or Vice-Chairman of a Branch Committee whenever he shall think fit.

'161. Every Branch Committee may from time to time select any member thereof to be an additional member of the District Road Committee, and such member shall thereupon, for the space of one year, become a member of the said Committee.

'162. Every such Branch Committee shall be, except as hereinafter provided, subordinate to the District Road Committee, and shall forward to the Committee such statements, suggestions and estimates as it may think fit, and the Committee shall consider and have regard to such statements, suggestions and estimates in framing the statements and estimates hereinbefore directed.

'163. Any such Branch Committee may require that any such statement, suggestion or estimate shall be submitted to the Commissioner for his consideration and for that of the Lieutenant-Governor.¹

'164. The Lieutenant-Governor¹ may in each year assign to any Branch Committee so much of the road fund levied for that year in the district, for portion of which such Branch Committee is appointed, as he may think fit, not exceeding the total estimated proceeds of the road cess leviable within the said portion of the district; and, further, may allot to the said Branch Committee so much of the income of the District Road Fund from other sources as he shall think fit.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Cess Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.
Section 159 of Act 1 of 1880, s. 3, page 534, ante.

(Part III.—Constitution and Administration of the District
Road Fund.—Chapter X.—Branch Committees.—
Secs. 165-168.)

¹165. The Lieutenant-Governor² may in any such case declare that the Branch Committee shall have the full powers of a District Road Committee within such portion of the district, and, whenever the Lieutenant-Governor² shall so have declared, the District Road Committee shall, within such portion of the district, cease to exercise powers and functions under sections 133, 139, 141, 142, 143 and 146.

Special
powers of
the Branch
Committee.

Such powers shall then vest in the Branch Committee and the provisions of sections 120, 121 [with the exception of clauses (2), (3), (4) and (6)], 128, 142, 144 and 147, shall apply to the proceedings of such Branch Committee, provided that all correspondence with the Commissioner shall be submitted through the Collector of the district; in any case in which the Lieutenant-Governor² may declare that a Branch Committee shall have the powers of a District Road Committee for specified works or specified purposes only, the powers of the District Road Committee in respect of such works and such purposes only shall cease within the said portion of the district, and such powers shall then vest in the Branch Committee.

¹166. Every Branch Committee so vested with powers as in the last preceding section provided shall prepare an estimate in regard to their annual income and expenditure similar to that required by section 146 to be prepared by the District Road Committee.

Their
estimates.

¹167. The provisions of sections 150, 151, 152, 153 and 157, shall, as far as they are applicable, apply to such estimate:

Limit of
estimates.

Provided that the aggregate amount to be expended by the Branch Committee in any year should not exceed the aggregate of the fund placed at their disposal for that year.

¹168. The Lieutenant-Governor² may at any time order that any of the functions hereafter mentioned or referred to in Chapter XI shall be discharged by any Branch Committee instead

Lieutenant-
Governor
may assign
functions of
Chapter XI
to Branch
Committee.

¹ See foot-note ² on page 564, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (1 of 1913), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter X.—Branch Committees.—Chapter XI.—Disbursement and Accounts of the District Road Fund.—Secs. 169-171.)

of by the District Road Committee in respect of any portion of the district for which such Branch Committee has been appointed.

Lieutenant-Governor may revoke order forming Branch Committee.

¹169. The Lieutenant-Governor² may at any time revoke an order forming any Branch Committee or an order declaring that a Branch Committee shall exercise the full powers or any special powers of a District Road Committee.

CHAPTER XI.

DISBURSEMENT AND ACCOUNTS OF THE DISTRICT ROAD FUND.

Collector to prepare annual statement of the District Road Fund.

¹170. The District Road Fund shall be lodged with the Collector of the district, who shall keep a separate account thereof, and shall cause to be prepared an annual statement of such account, showing in detail therein all sums paid into and all disbursements made from the treasury on account of the District Road Fund during the year.

After the appointment of any Branch Committee in a district, the Collector of the district shall in like manner keep a separate account of the Fund placed at the disposal of such Branch Committee.

Payments on account of the District Road Fund.

¹171. All payments on account of the District Road Fund shall be made by the Collector out of the said Fund upon cheques signed by the Vice-Chairman for sums not exceeding one hundred rupees.

When the Vice-Chairman is absent or from any cause incapacitated from signing, the Chairman may sign such cheques on behalf of the Vice-Chairman.

Cheques for sums exceeding one hundred rupees shall be signed by the Chairman and the Vice-Chairman.

¹ See footnote * on page 584, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orissa and Assam Laws Act, 1919 (7 of 1919), s. 3, and Sec. D, Item 1, in Vol. I of this Code.

OF 1880.]

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter XI.—*Disbursement and Accounts of the District Road Fund.*—Secs. 172-176.)

When the Vice-Chairman is absent or from any cause incapacitated from signing, such cheques shall be signed by any *ex officio* member of the Committee other than the Chairman, on behalf of such Vice-Chairman.

The word "Chairman" in this section includes any officer for the time being in charge of the office of Chairman under a written order from the chairman.

¹172. The Collector shall forward to the Vice-Chairman of every Committee as soon as possible after the close of each month, on account of his receipts and disbursements on account of the District Road Fund during such month.

Collector's
monthly
account.

¹173. Every Committee shall keep regular and detailed accounts of the moneys received or applied by them under the provisions of this Act and of their application, and such accounts shall be, at all convenient times, open to the inspection of all members of the Committee.

Accounts of
Committee.

¹174. Every Committee shall appoint a standing Sub-Committee, consisting of the Vice-Chairman and not less than two other members, for the audit of their accounts: and the accounts of each month shall be laid before the Sub-Committee as soon as possible after the close of such month: whereupon the said Sub-Committee shall proceed to audit the said accounts in such manner as the Lieutenant-Governor² may direct, and to pass or to amend and correct the said accounts as may be necessary, and to pass them as so amended and corrected.

Committee to
appoint a
sub-committee
to audit
accounts.

¹175. For the purposes of every audit and examination of accounts under this Act such Sub-Committee shall have power to call for all vouchers and papers which they may require.

Sub-Committee may call for vouchers and papers;

¹176. When such Sub-Committee shall have audited and passed the accounts of any month as above provided, they shall certify the result and the correctness of the accounts as passed by them in such form as the Lieutenant-Governor² may direct.

and certify correctness of accounts.

¹ See footnote * on page 584, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Part III.—Constitution and Administration of the District Road Fund.—Chapter XL.—Disbursement and Accounts of the District Road Fund.—Secs. 177-180.)

Accounts to be submitted to officer directed by the Lieutenant-Governor.

Vice-Chairman to prepare account of receipt and a report.

Accounts to be certified by Sub-Committee and transmitted to Lieutenant-Governor.

The Committee may make by-laws with approval of Lieutenant-Governor.

¹177. The accounts of each month, audited, passed and certified as in the last preceding section provided, shall be submitted by the Committee, not later than the twenty-fifth day of the following month to such officer as the Lieutenant-Governor² may direct.

¹178. As soon as possible after the close of each year, the Vice-Chairman of every Committee shall prepare a detailed account of the receipts and expenditure of the District Road Fund during such year and also a report of the work done and in progress during such year, whether under the directions of the District Road Committee or of any Branch Committee which has been vested with the full powers of a District Road Committee under section 165.

¹179. The annual accounts so prepared by the Vice-Chairman shall be examined and certified by the Sub-Committee of audit, and, after such examination and certification, shall be laid with the said annual report before a special meeting of the Committee to be held within two months of the close of such year; and the Committee shall submit a copy of the said account with a similar report to the Commissioner for transmission to the Lieutenant-Governor², who shall cause such accounts, with an abstract of such report, together with such remarks as the Commissioner may have made thereon, to be published in the Calcutta Gazette.

¹180. Every District Road Committee may from time to time make, and when made, alter, add to or cancel, by-laws³ not inconsistent with the provisions of this Act, for all or any of the following purposes, that is to say :—

- (1) regulating the traffic and providing for the safety and convenience of passengers on any road, water-channel or other means of communication under the charge of the Committee;

¹ See footnote ² on page 584, *ante*.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch., D, item 1, in Vol. I of this Code.

³ For by-laws made under section 180, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1880.]

(Part III.—*Constitution and Administration of the District Road Fund.*—Chapter XII.—*Miscellaneous.*—Sec. 181.)

- (2) providing for the preservation of such roads, water-channels and other means of communication, and of the trees planted by, or under the charge of, the Committee.

On conviction before a Magistrate a fine may be imposed for the breach of any such by-laws: Fines.

Provided that no fine exceeds for any offence the sum of ten rupees or, in the case of a continuing offence, the sum of two rupees for every day during which such offence is continued.

Any by-law so made, and every alteration of, addition to and cancellation of such by-law, shall require the sanction of the Lieutenant-Governor¹;

and, on such sanction being given, such by-law shall be published in the Calcutta Gazette and in the vernacular of the district, as the Lieutenant-Governor¹ may direct; By-laws to be published in Gazette.

and on such publication such by-law shall have the force of law.

CHAPTER XII.

MISCELLANEOUS.

'181. The Lieutenant-Governor¹ may from time to time direct that such establishments shall be entertained, and such expenses incurred, in the offices of the Board of Revenue,² of the Commissioners of divisions and of the Superintending Engineers, in any other office of control, in any office of account and in any treasury, or that such special officers shall be employed and such expenses incurred by them, as may be necessary, Lieutenant-Governor may give directions as to establishments, expenses, &c.

for the exercise of proper control over the proceedings of the Collectors and District Road Committees and Branch Committees in the discharge of their duties under this Act,

¹Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 4, and Sch. D, item 1, in Vol. I of this Code.

²See footnote ¹ on page 584, ante.

³As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913).

(Part IV.—Chapter XIII.—General.—Sec. 182.)

for the proper examination and checking of estimates furnished and accounts kept under this Act, and for the proper audit of such accounts,

and for the performance of the duties connected with the cash transactions of the District Road Committees;

and the Lieutenant-Governor¹ may make rules providing for the recovery of the cost of the establishments so entertained, and the officers so employed, and of expenses so incurred, from the several District Road Committees in such proportions as he may think fit:

Provided that the total amount which any District Road Committee is required to pay under this section shall not in any year exceed two *per centum* on the income of such Committee for such year.

Part IV.

CHAPTER XIII.

(GENERAL.

Lieutenant-Governor empowered to prescribe forms and rules.

182. The Lieutenant-Governor² may from time to time make, and, when made, from time to time alter, add to or cancel, any rules,³ not inconsistent with the provisions of this Act,—

‘(a) regulating the performance of the duties of the District Road Committees and Branch Committees, and of all persons employed under this Act, and in regard to the qualification, appointment, election and discharge of such persons;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ For rules made under section 182 (c) and (f), for Bengal as constituted on the 31st March, 1912—see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ Clause (e) of s. 182 was repealed by the Bengal Local Self-Government Act of 1886 (Ben. Act 9 of 1886), s. 2, and is now in force only in the Darjeeling District.

(Part IV.—Chapter XIII.—General.—Sec. 182.)

- ¹(b) prescribing the authorities by whom the execution of works of different classes respectively may be authorized and sanctioned;
- ¹(c) prescribing forms for the estimates, accounts, reports and statements required by this Act to be kept or made by the District Road Committee;
- (d) prescribing forms of accounts to be kept by the Collector under this Act;
- ¹(e) providing for the submission and checking of any estimates or accounts and for the audit of such accounts as aforesaid;
- (f) fixing the dates for payment of instalments of cess under sections 42 and 57²;
- ¹(g) determining the amount of fees to be levied for supplying copies of proceedings of any District Road Committee or Branch Committee as provided in section 127;
- ¹(h) fixing the month in which the meeting mentioned in section 146 shall be held;
- (i) and generally for the purposes of this Act.

Such rules shall be published in the Calcutta Gazette and shall thereupon have the force of law.

¹ Clauses (b), (c), (e), (g) and (h) of s. 182 were repealed by the Bengal Local Self-Government Act of 1886 (Ben Act 8 of 1886), s. 2, and are now in force only in the Darjeeling district.

² The power to fix dates for payment of instalments of cess under s. 57 is now vested in the Board of Revenue—see that section as printed ante, p. 868.

(Schedule A.)

SCHEDULE A.

Form of Return prescribed by section 14.

Amount of Government revenue or rent payable by the estate or tenure :

Rs. A. P.

PART I.

District

Name by which the estate or tenure is known, and the number which it bears on the Collector's general register, or on any other register kept by the Collector—

Details of lands in the actual occupation or cultivation of the person submitting the return :—

1	2	3	4	5
<i>Pargana.</i>	<i>Name of village and thence in which the lands are situate.</i>	<i>Area of land ¹ [if known].</i>	<i>Deduct area of land situate within any municipality.</i>	<i>Annual value of remaining land².</i>

¹ NOTE.—In the body of this statement should be entered only *ajjot* lands and such unoccupied lands in the use and occupation of the maker of the return as are capable of assessment on their annual value.

² These words in square brackets in the heading of column 3 of Part I were inserted by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 11, post, p. 630.

³ This note to Part I was substituted for the original note by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 11, post, p. 630. The original note ran thus :—

"NOTE.—Only *ajjot* lands and unculturable *ajjot* lands should be included in this Part."

of 1880.]

(Schedule A.)

PART II.

District

Name and number of estate or tenure as in Part I.

Details of lands held by cultivating *raiyats* paying direct to the persons submitting the return :—

1	2	3	4	5	6	7
<i>Pargana.</i>	Name of village and <i>thana</i> in which the lands are situate.	Name of <i>raiyat</i> , name of village, <i>thana</i> and district in which he resides.	Area occupied [if known.]	Annual rent.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART III.

District

Name and number of estate or tenure as in Part I.

Details of the tenure-holders paying to the person submitting the return :—

1	2	3	4	5	6	7	8
Name of tenure-holder and person paying rent for him borne on the books of holder of estate or tenure.	Name of village, <i>thana</i> and district in which such person resides.	Name of village and <i>thana</i> in which tenure is situated.	Name of village and <i>thana</i> in which <i>mā-etcherry</i> is situate.	Area if known.	Annual rent paid by tenure-holder.	Deduct rent of land included in any municipality.	Balance of net rent assessable.

PART IV.

District

Name and number of estate or tenure as in Part I.

Details of lands included in the estate or tenure of the person

¹ These words in square brackets in the heading of column 4 of Part II were added by the Bengal Cess (Amendment No. 2) Act, 1881 (Ben. Act 2 of 1881), s. 12, *post*, p. 620.

(Schedule B.)

submitting the return which are held by others than himself but for which no rent is paid :—

1	2	3	4	5	6	7
Pargana in which situated	Name of village and thána in which situated.	Name of holder, and owner, if known.	Name of village, thána and district in which the holder resides.	Area, if known.	Deduct area of land included in any municipality.	Annual value of remaining land.

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed

N.B.—This return must be signed by the holder or his authorized agent, whose address must also be given.

SCHEDULE B.

FORM No. I.

Form of Notice upon a Revenue-paying Estate or Rent-paying Tenure under section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

THE holders of estate or tenure (*description to be filled in*) in the district of _____ and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure and the rents paid therefor. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended

of 1880.]

(Schedule B.)

time which may be allowed by the Collector on application made to him, until such return shall be lodged. Notice is hereby given that no rents due to the holders of the said estate (or tenure) can be recovered by suit after such time until such return be so lodged.

If the annual amount of revenue or rent payable on the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If such amount exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE.

(Sd.) A. B.,

Dated

Collector.

N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

FORM No. 11.

Form of Notice upon a Revenue-free Estate or Rent-free Tenure under section 17.

District of

NOTICE UNDER SECTION 17 OF THE CESS ACT, 1880.

THE holder of the revenue-free estate of rent-free tenure (description to be filled in) in the district of and all others interested therein are hereby required to lodge in the office of the Collector of the said district a return, in the form hereunto annexed, of all lands comprised in such estate or tenure. Such return must be signed by such holder or his authorized agent, and be so lodged within the time mentioned below under a penalty of a daily fine which may amount to fifty rupees on each such holder for every day after the expiry of such time or of any extended time which may be allowed by the Collector on application made to him until such return shall be lodged.

Notice is hereby given that no rents due to the holders of the said estate (or tenure) can be recovered by suit after such time until such return be so lodged.

(Schedule C.)

If the gross annual rental of the estate or tenure to which this notice refers does not exceed Rs. 500, the holders are required to lodge the return within six weeks of the service of this notice.

If the gross rental exceeds Rs. 500, within three months of such service.

If for any good reason the holders will be unable to lodge the return within the time allowed, they should apply to the Collector for extension of such time.

COLLECTOR'S OFFICE,

(Sd.) A. B.,

Dated

Collector.

N.B.—To this notice shall be annexed forms of Parts I, II, III and IV of the return which is mentioned in Schedule A.

SCHEDULE C.

Form of Notice under section 33.

District of

NOTICE UNDER SECTION 33 OF THE CESS ACT, 1880.

THE owner, the chief agent, manager or occupier of (*give the name by which the concern or property is known*) situated in the district of , is hereby required to lodge in the office of the Collector of of a return in the form hereunto annexed, showing the amount of land under cultivation at the date of this return in the said

Such return must be signed by him and be lodged within the space of two months from the service of this notice (unless within the said two months such owner, chief agent, manager or occupier obtain from the Collector an extension of the said space of two months), under penalty of a daily fine of fifty rupees for every day after the expiry of such period or extension thereof until such return shall be presented.

Form of return to be annexed to the Notice.

District

Details of lands acquired under any rules for the sale, lease, grant or clearance of waste lands or held direct from

of 1880.]

(Schedule D.)

Government and used for the cultivation of tea, coffee or cinchona, under the control of the person submitting the return :—

1	2	3	4	5	6	7
Districts	<i>Parganas and thanas</i>	Designation by which the estate, lot or grant is known, and the number it bears on any register kept by the Collector.	Name of owner, agent, manager or occupier.	Entire area of land.	Area or areas of lands under cultivation.	Aggregate value at Rs. 10 per acre of land in [column 6].
in which the lands lie.						

I, X. Y. Z., do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE D.

Form of Notice under section 52.

NOTICE TO HOLDERS OF LANDS HELD RENT-FREE UNDER
SECTION 52 OF THE CESS ACT, 1880.

NOTICE is hereby given to all concerned that the lands specified in the annexed extracts from valuation-rolls of estates and tenures have been entered by the holders of such estates and tenures in the valuation-returns of their estates and tenures under the Cess Act, 1880, and have been valued as shown in the extracts.

Every owner and holder of any land entered in these extracts may appear before the Collector within one month of the publication of this notice, and may object to the amount at which his land has been valued.

If no such objection is made, the owners and holders of lands will be bound to pay year by year to the holder of the estate or tenure in which his land has been entered the amount of road cess and public works cess calculated on the annual

¹ This word and figure in square brackets in the heading of column 7 were substituted for the word and figure "column 5" by the Bengal Cess (Amendment No. 3) Act, 1931 (Ben. Act 3 of 1931), s. 12, post, p. 620.

(Schedule E.)

value of such land as entered in these extracts at the full rate which may be fixed for the year in the district.

If any instalment of the cess due upon any of the lands included in these extracts is not paid to the holder of the estate or tenure on or before the date which the Lieutenant-Governor¹ may fix for the payment of such instalment, the holder of the estate or tenure will be entitled to recover double the amount due with interest and all costs of suit.

SCHEDULE E.

Form of Notice under section 72.

District of

NOTICE UNDER SECTION 72 OF THE CESS ACT, 1880.

THE owner, chief agent, manager or occupier of the (*give the designation of the property*), situated in the district of , is required to lodge in the office of the Collector of the district of a return in the form hereunto annexed, showing the net profits of the calculated on the average of the profits of the last three years for which accounts have been made up. Such return must be signed by him or his authorized agent, and be lodged within the space of two months from service of this notice, unless within the said two months an extension of the time allowed is obtained from the Collector.²

COLLECTOR'S OFFICE,

(Sd.) A. B.,

Dated

Annexed form of Return.

District

Detail of yearly profits of mines, quarries, railways and tramways or other immovable property in the possession or under the control of the person submitting the return :—

1	2	3	4
Districts	Parganas	Name of holder or manager.	Annual net profits per annum on the average of the last three years for which accounts have been made up.
In which the property lies.			

¹ Now the Board of Revenue—see s. 57 as printed *ante*, p. 568.

² For penalty for omitting to lodge a return, see s. 73 A, *ante*, p. 568.

of 1880.]

(Schedule F.) -

I, *X.Y.Z.*, do declare that the statements contained in the above return are true to the best of my knowledge, information and belief.

Signed

N.B.—This return must be signed by the owner, chief agent, manager or occupier.

SCHEDULE F.

Form of Notice under section 99.

District of

NOTICE UNDER SECTION 99 OF THE CESS ACT, 1880.

THE occupiers, tenure-holders, under-tenants and *raiyats* on estate or tenure (*the estate, tenure or lands to be here clearly designated*) are hereby prohibited, until further order of the Collector, from making any payment of rent now or hereafter to become due from them in respect of any land comprised within such estate or tenure except to the Collector of the said district or to (*name of person*) hereby appointed to receive the same. The Collector will grant receipts for all sums paid; and such receipts will, under the provisions of the above Act, be a valid discharge, to the extent of the sums covered by such receipts, for rent due, or become due, as above stated by the holders of such receipts. All payments, except to the Collector, until further order, will be null and void.

(Sd.) A. B.,
Collector.

BENGAL ACT 2 OF 1881

[THE BENGAL CESS (AMENDMENT No. 2) ACT, 1881].

CONTENTS.

PREAMBLE.

SECTION.

1. Amendment of section 9 of the Cess Act, 1880.
2. Amendment of section 10.
3. Amendment of section 13.
4. Introduction of new section after section 40.
5. Amendment of section 42, clause (1).
6. Amendment of section 43.
7. Addition to section 44.
8. Amendment of section 45.
9. Amendment of section 46.
10. Amendment of section 108.
11. Amendment of Schedule A, Part I.
12. Amendment of Schedule A, Part II.
13. Amendment of Schedule C.

BENGAL ACT 2 OF 1881

[THE BENGAL CESS (AMENDMENT NO. 2) ACT, 1881].¹

(4th May, 1881.)

An Act to amend the Cess Act, 1880.²

- Act 9 of 1880. Whereas it is expedient to amend the Cess Act, 1880,³ Preamble.
passed by the Lieutenant-Governor of Bengal in Council; It is hereby enacted as follows:—
1. In section 9 of the Cess Act, 1880, for the figures "111" the figures "109" shall be substituted. Amendment of section 9 of the Cess Act, 1880.
 2. In section 10, after the words "public works cess," the words "and all interest paid thereon" shall be inserted. Amendment of section 10.
 3. In section 13, after the words "in accordance with any valuation" the words "or re-valuation" shall be inserted. Amendment of section 13.
 4. After section 40 the following section shall be inserted, namely:— Introduction of new section after section 40.
40A. [Printed *ante*, p. 552.]
 5. In section 42, clause (1), for the words "for the payment of the instalments," the following shall be substituted:— Amendment of section 42, clause (1).
"under the provisions of section 3 of Act 11 of 1859, or of any similar Act at the time being in force for the payment of arrears."
 6. In section 43, after the word "proportionately" the words "to the land-revenue" shall be inserted. Amendment of section 43.
In clause 3 of the same section, for the words "the last preceding section" the words "this section" shall be substituted.
 7. To section 44 the following clause shall be added:— Addition to section 44.
(5) [Printed *ante*, p. 557].
 8. In section 45, after the word "twelve" the words "and a-half" shall be inserted. Amendment of section 45.
 9. In section 46, clause (3), for the words "preceding section" the words "preceding clause" shall be substituted. Amendment of section 46.
 10. In section 108, after the words "cesses under this Act," the words "not being interest levied in respect of public works cess," shall be inserted. Amendment of section 108.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I.—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons see Calcutta Gazette, 1881, Part IV, p. 8; and for Proceedings in Council. see *ibid.* 1881, Supplement, pp. 144, 148, 200 and 206.

LOCAL EXTENT.—Since this Act merely makes textual amendments in Ben. Act 9 of 1880, and contains no "local extent" clause, its local extent must be taken to be the same as that of the Act of 1880, *vide* p. 529.

The application of the Act is barred in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² Printed *ante*, page 529.

(Secs. 11-13.)

Amendment of Schedule A, Part I. **11.** In the heading of column 3 of Part I, Schedule A, after the word "land," the words "if known," shall be inserted.

For the note which stands below Part I of the same Schedule the following note shall be substituted :—

[Printed *ante*, p. 608.]

Amendment of Schedule A, Part II. **12.** In the heading of column 4 of Part II, Schedule A, after the word "occupied," the words "if known" shall be added.

Amendment of Schedule C. **13.** In the heading of column 7 of the form of return in Schedule C, for the word and figure "column 5" the word and figure "column 6" shall be substituted.

BENGAL ACT 3 OF 1881

[THE BENGAL COURT OF WARDS (AMENDMENT) ACT, 1881].

CONTENTS.

PREAMBLE.

SECTION.

1. Construction.
(Commencement.) *Repealed.*
2. (*Repealed.*)
3. Amendment of sections 16 and 17 of Ben. Act 9 of 1879.
4. Amendment of section 23.
5. Amendment of sections 48 and 49.
6. Amendment of section 50.
7. Amendment of section 55.
8. Amendment of section 58.
9. New section introduced between sections 58 and 59.
10. New section substituted for repealed section 63.
11. New section introduced after section 65.

BENGAL ACT 3 OF 1881

[THE BENGAL COURT OF WARDS (AMENDMENT) ACT, 1881].¹

(25th May, 1881.)

An Act to amend the Court of Wards Act, 1879.²

Ben. Act 9 of 1879.

Whereas it is expedient to amend the Court of Wards Act, 1879³; It is enacted as follows:—

1. This Act shall be read and taken as part of the Court of Wards Act, 1879.

(Commencement). *Rep. by the Repealing and Amending Act, 1897 (5 of 1897).*

2. (Repeal). *Rep. by the Repealing and Amending Act, 1897 (5 of 1897).*

3. For sections 16 and 17⁴ of Bengal Act 9 of 1879 the following section shall be substituted:—

16. [Printed *ante*, p. 418.]

4. For section 23 of the same Act the following sections shall be substituted, namely:—

23, 23A. [Printed *ante*, pp. 419 and 420.]

5. The following sections shall be substituted for sections 48 and 49 of the same Act:—

48, 49. [Printed *ante*, pp. 426, 427.]

6. In section 50 of the same Act, for the word "person" the word "male" shall be substituted, and for the word and figures "section 49" the word and figures "section 48" shall be substituted.

7. In section 55 of the same Act, after the words "shall be brought on behalf of any ward," the words "by a manager" shall be inserted.

8. To section 58 of the same Act the following words shall be added, namely:—

[Printed *ante*, p. 430.]

9. The following section shall be inserted between section 58 and section 59 of the same Act:—

58A. [Printed *ante*, p. 430.]

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPER.—For Statement of Objects and Reasons, see Calcutta Gazette, 1881, Pt. IV, p. 9, and for Proceedings in Council, see *ibid*, Supplement, pp. 148, 169, 243, 255 and 265.

LOCAL EXTENT.—Since this Act is (see section 1) to be "read and taken as part of" Bengal Act 9 of 1879, its local extent is the same as that of the latter Act, as to which see foot-note¹ on p. 405, *ante*.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² Printed *ante*, page 405.

³ So much of Bengal Act 8 of 1881 as related to section 17 of the Court of Wards Act, 1879 (Ben. Act 9 of 1879) was repealed by section 9 of the Government Management of Private Estates Act, 1899 (10 of 1899), printed in General Acts, 1897-97, Ed. 1909, p. 355.

From

Construction.

Amendment of sections 16 and 17 of Ben. Act 9 of 1879.

Amendment of section 23.

Amendment of sections 48 and 49.

Amendment of section 50.

Amendment of section 55.

Amendment of section 58.

New section introduced between sections 58 and 59.

624 THE ~~BENGAL~~ COURT OF WARDS (AMENDMENT) ACT, 1881.

[Ben. Act 3 of 1881.]

(Secs. 10. 11.)

New section
substituted
for repealed
section 63.

10. Instead of the repealed section 63 of the same Act, the following section shall be read, namely:—

63. [Printed *ante*, p. 432.]

New section
introduced
after section
65.

11. After section 65 of the same Act the following section shall be inserted, namely:—

65A. [Printed *ante*, p. 433.]

BENGAL ACT 5 OF 1881.

(THE CALCUTTA BURIAL BOARD'S ACT, 1881.)

CONTENTS.

PREAMBLE.

SECTION.

1. Short title.
(*Commencement. Repealed.*)
2. Lieutenant-Governor may appoint a Burial Board.
3. Constitution of Board.
4. Chairman to be appointed by Lieutenant-Governor.
5. Lieutenant-Governor may place Government burial grounds under the Board.
6. Board to receive and account for fees and grants.
7. Board may appoint subordinate establishments.
8. Power to make rules.
9. Power to withdraw burial-grounds from control of Board.
10. Provision for making over private cemeteries to charge of Board.

BENGAL ACT 5 OF 1881

(THE CALCUTTA BURIAL BOARD'S¹ ACT 1881).²

(20th July, 1881.)

An Act to provide for the appointment of a Burial Board in Calcutta and its Suburbs.

Whereas it is expedient to make better provision for the general management, regulation and control of the Government burial-grounds in the town of Calcutta and its suburbs; It is hereby enacted as follows:—

1. This Act may be called the Calcutta Burial Board's³ Act, 1881. Short title

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act 1903—vide Act 10 of 1914, Sch. II.*

2. The Lieutenant-Governor of Bengal⁴ may, by a notification⁵ published in the Calcutta Gazette, appoint a Burial Board for the Town and Suburbs of Calcutta. Lieutenant-Governor may appoint a Burial Board.

3. The Board shall be constituted as follows:— Constitution of Board.

the Chairman of the Calcutta Corporation;

the Health Officer of Calcutta;

an Officer of the Public Works Department, to be appointed⁶ by the Lieutenant-Governor of Bengal⁷;

the Senior Chaplain of St. John's Church in Calcutta;

a clergyman of the Church of Rome, to be nominated by the Archbishop and Vicar Apostolic of Western Bengal;

a Protestant Nonconformist Minister, to be nominated by the Lieutenant-Governor of Bengal⁸;

not less than three and not more than six other members to be nominated by the Lieutenant-Governor of Bengal.⁹

The Lieutenant-Governor of Bengal¹⁰ may, from time to time, relieve any member of the Board nominated by him of his functions as such member.

¹ *Sic. Read Board.*

² **LEGISLATIVE PAPERS.**—For Statement of Objects and Reasons, see Calcutta Gazette, 1881, Pt. IV, p. 6; and for Proceedings in Council, see *ibid.* Supplement, 1881, pp. 187, 206 and 261.

LOCAL EXTENT.—This Act extends only to the town and suburbs of Calcutta—see the title and the preamble.

FURTHER ENACTMENT.—As to the burial of Muhammadans and others, see the Calcutta Burial Board's Act, 1889 (Beng. Act 4 of 1889), *post*, p. 987.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I, of this Code.

⁴ For notifications issued under section 2, see the Bengal Local Statutory Rules and Orders 1912, Vol. I, Pt. VI.

⁵ For an appointment made under this clause of section 3, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Secs. 4-8.)

Chairman to
be appointed
by Lieute-
nant-Governor.

4. The Chairman of the Board shall be nominated by the Lieutenant-Governor of Bengal.¹

Lieutenant-Governor may
direct the Board
to manage burial-
grounds under the
Board.

5. The Lieutenant-Governor of Bengal¹ may, by a notification published in the Calcutta Gazette, place under the control of the Board all or so many of the Government burial-grounds (including military burial-grounds) situate in the Town or suburbs of Calcutta as to him shall seem fit; and the general management, regulation and control of such burial-grounds shall, subject to the provisions of this Act, be thereupon vested in, and exercised by, the Board.

Board to receive and
account for fees and
grants.

6. The Board shall receive all fees and other moneys paid or given in respect of the use of such burial-grounds, and the erection of monuments therein, and such grants as Government may from time to time place at their disposal, and shall pay thereout all charges and expenses incurred by them in the management of the same, and shall submit accounts of such receipts and expenditure once in every year to the Lieutenant-Governor of Bengal,¹ in such form and manner as the Lieutenant-Governor¹ may direct.

Board may from time
to time appoint all
such overseers, clerks,
subordinate officers
and servants as they
shall think necessary
and proper to assist
in carrying out the
purposes of this Act,
and may from time
to time remove any
of such persons and
appoint others in
their place.

7. The Board may from time to time appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act, and may from time to time remove any of such persons and appoint others in their place.

8. The Board may, with the sanction of the Lieutenant-Governor of Bengal,¹ from time to time make such rules² consistent with the purposes of this Act, as they may think necessary for any of the following purposes: that is to say:—

- (a) for regulating the times when the Board shall meet and the procedure to be observed at such meetings;
- (b) for securing the preservation, repair or removal of existing monuments, and for regulating the dimensions and erection of new monuments, in any burial-ground under their charge;
- (c) for regulating the mode of payment of fees, charges and other dues in respect of interments in any such burial-ground and for the expenditure of the same;
- (d) for directing the manner in which and the persons by whom all works within any such burial-ground shall be executed; and
- (e) for otherwise carrying out the purposes of this Act;

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

² For a notification issued under section 5—see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ For rules made under section 8—see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1881.]

(Secs. 9, 10.)

and may from time to time, with the sanction aforesaid, vary, alter or revoke any such rules so made.

All rules so made and variations, alterations or revocations of rules shall be published in the Calcutta Gazette.

9. The Lieutenant-Governor of Bengal¹ may in his discretion at any time withdraw any burial-ground from the control and management of the Board.

10. It shall be lawful for the proprietors of any Christian burial-ground, with the sanction² of the Lieutenant-Governor of Bengal,¹ to place the same under the management, regulation and control of the Board, on such terms and conditions as the Lieutenant-Governor¹ may approve: and such burial-ground shall thereupon be managed in all respects as a Government burial-ground subject to the provisions of this Act.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and 1 Sch. D, item 1, in Vol. I of this Code.

² For an order made under section 10—see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

BENGAL ACT 2 OF 1882
(THE BENGAL EMBANKMENT ACT. 1882).

CONTENTS.

PART I

PREAMBLE.

PRELIMINARY.

SECTION.

1. Short title.
Local extent.
(Commencement.) *Repealed.*
2. Repeal of former Acts.
3. Interpretation.
4. Public embankments, etc., to vest in Government.
5. Survey of lands hitherto used for obtaining earth for repairs.
6. Notification.

PART II.

POWERS OF COLLECTOR AND PROCEDURE THEREON; EMBANKMENT COMMITTEES.

7. Powers of Collector.
 - (1) Taking charge of embankment by Government.
 - (2) Removal of embankment or obstruction.
 - (3) Changing line of embankment.
 - (4) Improvement of drainage.
 - (5) Alteration of roads and construction of water-courses.
8. Form of notice.
9. Proclamation to be published for thirty days.
10. Hearing of objections to works.
11. Order after inquiry.
12. Order of Commissioner.
13. Order of Board.
14. Order of Lieutenant-Governor.
15. Special powers which may be conferred by Lieutenant-Governor.
16. (*Repealed*).
17. Procedure of Collector.
Expenses of alteration or construction.
18. Application for new sluices, embankments or drainage.
19. Power to remove houses, etc.
20. Authority to take proceedings where lands likely to be affected by the works
are in different districts.
21. Lieutenant-Governor may appoint Embankment Committee.
22. Consultation of Committee by Collector.
23. Business of Committee.
24. Reference to Commissioner.

SECTION.

PART III.

PROCEDURE IN CASES OF IMMINENT DANGER TO LIFE OR PROPERTY.

- 25. Proceedings in emergencies.
- 26. Restoration of embankments, etc.
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- 28. Engineer subject to control of Collector.
- 29. Power to Engineer to act in urgent cases.
- 30. Power to make repairs.
- 31. Power to make temporary roadway, water-course or dam.
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- Payment for damage.
- 34. Power to take earth from lands.
- 35. Procedure where crops on such lands.
- 36. Acquisition of land made permanently unfit for cultivation.

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- 38. Compensation for consequential damage.
- 39. Limitation to claim for compensation.
- 40. Procedure for determining compensation.
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- 42. Embankments in Schedule D.
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SECTION.

46. Contribution may be discontinued if it be found unnecessary for the public interest to maintain the embankments.
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48. Preparation of further estimates and specifications.
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51. Preparation of accounts and Engineer's certificate of expenses.
52. Notices and inquiry into objections.
53. Total sum payable.
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2.—*Liability for the Costs, and Apportionment thereof.*

54. Parties liable to pay.
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55. Recovery from under-tenants.
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66. Mode of apportionment.
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3.—*Recovery thereof.*

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75. Penalty for obstructing persons in exercise of powers conferred by Act.
76. Penalty for unauthorized interference with embankments or drainage.
Penalty for unauthorized interference with embankments or drainage in prohibited tract.
Penalty for abatement of such acts.
77. Penalties for injuring embankments, etc.
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84. Appeal from orders.
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89. Jurisdiction.
90. Power to make, alter and cancel rules.
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SCHEDULE I.

SCHEDULE II.

SCHEDULE III.

BENGAL ACT 2 OF 1882

(THE BENGAL EMBANKMENT ACT, 1882)¹.

(21st June, 1882.)

An Act to amend the law relating to Embankments and Water-courses.

Whereas it is expedient to make better provision for the construction, maintenance and management of embankments and water-courses in the territories subject to the Lieutenant-Governor of Bengal²; It is enacted as follows:—

Preamble.

PART I.

PRELIMINARY.

1. This Act may be called the Bengal Embankment Act, 1882. Short title.

It extends to the whole of the territories subject to the Lieutenant-Governor of Bengal³, except the Sundarbans, *as defined under the provisions of clause 2, section 13, Regulation 3 of 1828⁴ [and the province of Orissa, save as otherwise expressly provided in Part IX].* Local extent.

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. 'Bengal Act 6 of 1873' (to amend the law relating to embankments and water-courses), with the exception of the sections set out and schedules specified in Schedule I to this Act annexed, shall be repealed. Repeal of former Acts.

The references in the said sections, which are mentioned in Schedule II to this Act annexed, shall be read as if the references were made to the portions of this Act mentioned against such references respectively in the third column of such schedule.

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1882, Pt. IV, page 12; and for Proceedings in Council, see *ibid*, Supplement, pages 46, 91, 808 and 829.

LOCAL EXTENT.—This Act extends to the whole of the present Presidency of Fort William in Bengal except the Sundarbans, see s. 1; but its application is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

FURTHER ENACTMENTS.—For another enactment relating to embankments (except in the Sundarbans), see the Bengal Embankment Act, 1878 (Ben. Act 6 of 1878), *ante*, p. 236.

For enactments relating to embankments in the Sundarbans, see—

The Bengal Embankment Act, 1855 (23 of 1855), in Vol. I of this Code.

The Bengal Embankment Act, 1866 (Ben. Act 7 of 1866), *ante*, p. 127.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ Clause 2 of section 13 of Bengal Regulation 3 of 1828 has been repealed by the Sundarbans Act, 1906 (Ben. Act 1 of 1906), in Vol. III of this Code.

⁴ Formal words repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

^x The Bengal Embankment Act, 1878. It is printed *ante*, p. 236.

(Part I.—Preliminary.—Sec. 3.)

Sections 80 and 81 of this Act shall be applicable respectively to the proclamation and notice mentioned in sections 26 and 28, Bengal Act 6 of 1873¹.

Interpreta-
tion.

3. The following words shall, for the purposes of this Act, have the meanings hereby declared, save where, from the context, a contrary intention appears:—

"Collector."

"Collector" means any Revenue-officer in independent charge of a district or portion of a district, or specially appointed² by the Lieutenant-Governor of Bengal³ to perform the functions of a Collector under this Act:

"District."

"district" means the local area throughout which a Collector is authorized to exercise his ordinary functions:

"Embank-
ment."

"embankment" includes—

every bank, dam, wall and dyke made or used for excluding water from, or for retaining water upon, any land; every sluice, spur, groyne, training-wall or other work annexed to, or portion of, any such embankment; every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any land from erosion or overflow by or of rivers, tides, waves or waters; and also all buildings intended for purposes of inspection and supervision:

"Estate."

"estate" means any land or share in land included under one entry on the general register of revenue-paying lands and of revenue-free land prepared and maintained by the Collector of a district under the Land Registration Act, 1876,⁴ or any similar law for the time being in force:

Ben. Act 7 of
1876.

"Land."

"land" includes interests in land and benefits arising out of land, and things attached to the earth, or permanently fastened to anything attached to the earth:

"Public em-
bankment."

"public embankment" means an embankment maintained by the officers of Government:

"Public
water-course."

"public water-course" means a water-course under the charge of the officers of Government:

"Section."

"section" means a section of this Act:

"Tenure."

"tenure" includes all interests in land which are held permanently at a fixed rental, or which are held rent-free, other than estates as above defined:

"The En-
gineer."

"the Engineer" means the Engineer in charge of the public embankments of the district, or any part thereof, or any Engineer specially appointed⁵ by the Lieutenant-Governor of

¹ The Bengal Embankment Act, 1873. It is printed ante, p. 235.

² For an appointment made under this clause of section 3, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ Printed ante, p. 245.

⁵ For lists of appointments made under this clause of section 3 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1882.]

(Part I.—Preliminary.—Secs. 4, 5.)

Bengal¹ to perform the functions of an Engineer under this Act in respect of any tract of country or of any works :

“water-course” includes a line of drainage, weir, culvert, pipe or other channel, whether natural or artificial, for the passage of water: “Water-course.”

“*zamindar*” means all or any of the holders of an estate; and, where two or more *zamindars* are jointly holders thereof, they shall be jointly and severally liable under this Act. “*Zamindar*.”

Explanation.—For the purposes of Part VI the Government shall be deemed to be the *zamindar*—

- (a) of every estate of which the *zamindari* title is not vested elsewhere than in the Government;
- (b) of every estate which is let in farm or held *khas* under the provisions of section 43 of Regulation 8 of 1793² in consequence of the proprietor refusing or omitting to engage for the settlement thereof.

4. Every public embankment and every public water-course, and all land, earth, pathways, gates, berms and hedges belonging to, or forming part of, or standing on, any such embankment, or water-course and every embanked tow-path maintained by Government, shall vest in the Government. Public embankments, etc., to vest in Government.

The embankments mentioned in Schedule D³ annexed to Bengal Act 6 of 1873 and every embankment and water-course which may be included in such Schedule under section 43 of this Act, and every embanked tow-path as aforesaid, shall be held on behalf of the Government: and all other public embankments and water-courses shall be held by Government on behalf of the persons interested in the lands to be protected or benefited by such embankments or water-courses, subject to the provisions of section 87: and all moneys received on account of such lands shall be credited to the cost of the construction and maintenance of such embankments and water-courses respectively.

5. All plots or parcels of land which, before the commencement of this Act, have been used for the purpose of obtaining earth or other materials for the repair of any public embankment, water-course or embanked tow-path as aforesaid, or which by agreement have been substituted for such lands, shall be deemed to be at the disposal of the Government for such purpose, without payment of compensation for the use or removal of such earth or other materials. Survey of lands hitherto used for obtaining earth for repairs.

The Collector may cause all such plots or parcels to be ascertained, surveyed and demarcated.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² The Bengal Decennial Settlement Regulation, 1793. It is printed in Vol. I of this Code.

³ Printed ante, p. 288.

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 44-46.)

this section, the Lieutenant-Governor¹ may direct² that the same shall be no longer included in the said Schedule :

Provided that the Lieutenant-Governor¹ may restore³ the same to the said Schedule if on any subsequent inquiry similarly conducted it shall appear to the Lieutenant-Governor⁴ that it is necessary so to do.

Addition to
Schedule D.

The Lieutenant-Governor¹ may, at any time after the passing of this Act, by a notification published in the Calcutta Gazette, direct² that any embankment not mentioned in the said Schedule D³ or any water-course, be included therein and the provisions of this section shall apply to such embankment or water-course.

Contribution
of public
money to-
wards the
maintenance
of the em-
bankments in
the *parganas*
entered in
Schedule E to
be continued.

If such em-
bankments
are declared
to be public,
Collector to
keep a sepa-
rate account.

44. In accordance with the custom heretofore in force in respect of the *parganas* entered in Schedule E⁴ annexed to Bengal Act 6 of 1873, the Government shall continue to contribute annually the sum noted therein for each *pargana* respectively towards the maintenance of the embankments thereof.

45. If the embankments maintained in either of the said *parganas* shall at any time be declared to be public embankments under the provisions of section 7, the Collector shall, from the date of such declaration, keep a separate account for such *parganas*, in which the aforesaid sum shall be credited at the commencement of each financial year.

The unexpended balance at the close of each year shall be carried on to the credit of the account in the next succeeding year, and shall be available for the cost of repairing or erecting all the embankments which it may be deemed necessary to maintain in such *pargana*.

Contribution
may be dis-
continued if
it be found
unnecessary
for the public
interest to
maintain the
embankments.

46. If at any time⁵ on an inquiry made by the Collector as far as possible in accordance with the provisions of Part II, it shall be found that it is unnecessary for the public interests to retain any embankment in either of the said *parganas*, the Lieutenant-Governor¹ may direct that such contribution shall cease in respect of such *pargana* :

Provided that such contribution shall again be made in accordance with the provisions hereinbefore contained, if it shall appear to the Lieutenant-Governor¹ on the report of an inquiry similarly conducted, that the maintenance of any embankment in such *pargana* has again become necessary for the public interest.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, Sch. D, items 1 and 2, in Vol. I of this Code.

² For lists of orders made under s. 46 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI. The said orders are noted in Sch. D as printed on pages 255 to 270 *ante*.

³ Printed *ante*, page 222.

⁴ Printed *ante*, page 222.

⁵ Formal words which were repealed by the Repealing and Amending Act, 1906 (1 of 1906), are omitted.

of 1882.)

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 47-51.)

47. Subject to the provisions of Part III¹ of this Act, before the Collector or the Engineer undertakes, under the provisions of this Act, the execution of any repairs or of any work other than any new work of which the estimates, specifications and plans have been prepared and deposited in the Collector's office for public inspection as provided in section 7, specifications and estimates of the expenses to be incurred in respect of the repairs or works, including such proportion of establishment charges as the Lieutenant-Governor¹ shall direct, shall be prepared by the Engineer.

Estimates and specifications to be prepared.

48. Whenever it appears that the actual expenses to be incurred in respect of any work will exceed by one-tenth any estimates of such work which may have been transmitted to the office of the Collector under the next succeeding section, the Engineer shall forthwith prepare further estimates, and, if necessary, further specifications.

Preparation of further estimates and specifications

49. Copies of all specifications and estimates prepared under the two last preceding sections shall be transmitted to the office of the Collector, together with vernacular translations thereof, or such abstracts thereof as the Lieutenant-Governor¹ may from time to time direct, and may be examined by any person interested in such works and repairs.

Estimates and specifications to be open to inspection.

50. A general notice of the receipt of any such specifications and estimates shall be published in the manner prescribed in section 80, and in such general notice shall be specified all estates chargeable for, or likely to be affected by, the said works or repairs. Special notices shall also be served in respect of every estate in which the area liable to the assessment of the apportioned charge is likely to exceed one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate chargeable for, or likely to be affected by, the said works and repairs. Should any objection in regard to such specifications and estimates be preferred by any such person within a period of one month from the date of service of such notice, the Collector shall pass such orders as may appear to him reasonable and proper.

Notice of receipt of estimates and specifications

51. The accounts of the actual expense incurred in executing any works or repairs, or of any portion of the actual expenses with which the Collector may determine to deal separately under this and the following sections, shall be prepared as soon as possible after the completion thereof.

Preparation of accounts and Engineer's certificate of expenses.

The Engineer shall sign a certificate stating the amount of all such expenses, and specifying the boundaries of the lands which are benefited or affected by the said works or repairs, and stating generally how and to what extent the lands so specified, or any parts of them, are affected.

¹Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, Items 1 and 2, in Vol. I of this Code.

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 52, 53.)

Any such certificate may be amended at any time before the Collector has made an order charging or apportioning the amount under section 58.

On receipt of such certificate or amended certificate, the Collector shall cause a statement to be prepared of the villages of which any lands are benefited or protected by such works and repairs, and of the estates to which they belong, and, except as otherwise in this Act provided, the *zamindars* of such estates and villages shall be liable to pay the said amount.

Copies of the said accounts, certificates and statements shall be deposited in the office of the Collector, and may there be examined by any person interested.

Notices and
inquiry into
objections.

52. General notice of the receipt and deposit of such accounts, certificates and statements in the office of the Collector shall be given.

Special notices thereof shall also be served in respect of every estate in which the area liable to assessment of the apportioned charges exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the *zamindars* or tenure-holders of which any sum is charged or apportioned; and if, within one month of such general notice being given, or of such special notice (if any) being served on him, any interested person shall object to the accounts on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than those mentioned in the estimates, the Collector shall inquire into such objection, and pass orders thereon.

Total sum
payable.

53. The Collector shall add to the amount appearing in the said certificate all sums which have been paid or have become payable in respect of the said works and repairs, whether as compensation, costs and expenses under, and incidental to, any proceedings taken or directed to be taken under Part II or Part V of this Act, or under sections 26 to 29¹ of Bengal Act 6 of 1873, as cost of making of surveys and plans, as cost of preparing the estimates, accounts, certificates and statements, as cost of the issuing and service of notices up to date, or on any other account, and shall then make an order specifying the total sum found payable, and in respect of works done under section 17 and section 31 the persons by whom, or in respect of other works, the estates in respect of which, the same is payable to him. If the order is made in respect of work done under section 17 or section 31, the same shall forthwith be served upon the party or parties liable to pay; otherwise the Collector shall proceed under the provisions in the next Chapter contained.

¹ Printed ante, page 246

of 1882.]

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 54-57.)

Interest may be charged upon any sum paid as compensation from the date of payment thereof at five *per centum*, or at such rate, not exceeding five *per centum per annum*, as the Lieutenant-Governor¹ may from time to time determine. Interest.

2.—Liability for the Costs, and apportionment thereof.

54. The total sum aforesaid, save so far as is otherwise provided in this Act, shall be paid to the Collector by the *zamindars* of the estates in which are situated the lands benefited or protected by the repairs or works executed: Parties liable to pay.

Provided that the sum standing to the credit of a *pargana* in Schedule E² to Bengal Act 6 of 1873 annexed in the account kept by the Collector, at the time when the total amount payable is fixed under the provisions of section 53, shall be deducted from the total amount payable in respect of such portion of any embankment as is situated in such *pargana*, and that the *zamindars* of the estates situated in such *pargana* shall be charged only with the balance of the amount (if any) which may remain payable. Proviso in respect of the pargana in Schedule E.

55. Every *zamindar*, who is liable under the last preceding section for the payment of the whole or a portion of such total sum, shall be entitled to recover from the holder of every tenure held immediately under him, and from the holder of any land which is declared under the provisions of section 60 to form part of his estate, the sum apportioned to such tenure or land by the Collector under the provisions of section 59. Recovery from under-tenants.

And, similarly, every tenure-holder shall be entitled to recover from the holder of any tenure subordinate to his own, and from the holder of any land declared under section 60 to form part of his tenure, the sum apportioned to such subordinate tenure or land by the Collector, under the said provisions.

56. So soon as the total sum payable as aforesaid has been ascertained, the Collector shall cause general notice to be given specifying the estates in respect of which any portion of such total sum will be chargeable, and special notices to be served in respect of every estate in which the area chargeable exceeds one hundred acres; or, instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the *zamindars* or tenure-holders of which any sum is charged or apportioned. Notice to be given before apportionment.

Such notices shall make it known that an inquiry will be held at a day and place therein named for the purpose of apportioning amongst the *zamindars* and tenure-holders the said total sum, with interest and the costs of apportionment.

57. In any such inquiry the Collector shall take down in writing the names of all persons who may claim, or who may Names of tenure-holders.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² Printed *ante*, page 270.

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 58, 59.)

be alleged by any party interested to be holders of tenures within any of the estates mentioned in such notice. In default of appearance of any such person, the Collector shall issue and serve a notice calling on him to appear at a date and place therein mentioned, and to show cause against being included in the order of apportionment to be made therein, and shall adjourn the inquiry till such date.

Apportionment amongst zamindars.

58. At such or any subsequently adjourned inquiry, the Collector, if there be only one estate liable, shall charge the *zamindar* thereof with the total amount payable; and if there be two or more estates, he shall apportion the same amongst the *zamindars* thereof, either—

- (a) rateably in proportion to the respective benefits derived by such estates from such works or repairs; or
- (b) in proportion to the areas of the lands benefited or protected thereby, and comprised within such estates respectively; or
- (c) with the sanction of the Local Government, in proportion to the amount of revenue payable for such estates respectively:

[Provided that the said total amount payable in respect of the embankments on the right bank of the river Gandak shall be chargeable, in accordance with the custom in force for such estates, to the *zamindars* of all the estates situated in the district of Saran, in proportion to the amount of revenue respectively payable for such estates:]

Provided also that the total amounts which may have been expended by the Government before the commencement of this Act, and the total amounts which may become payable in accordance with the provisions of this Act, on account of any year in respect of the embankments on the left bank of the river Gandak in the district of Muzaffarpur, shall be chargeable, and shall be deemed always to have been chargeable, in accordance with the custom hitherto in force in respect of such embankments; that is to say, chargeable to the *zamindars* of all the estates situated in the following parganas, viz., Rati, Gadasand, Hajipur, Bhatsala, Garjaol, Nae, Saresa and Balagach; in proportion to the amounts of land-revenue payable for such estates respectively, but so that the amount out of any total sum apportioned in respect of each estate in Rati, Gadasand and Hajipur, shall bear such a proportion to the land-revenue payable for such estate as shall be twice as great as the proportion which the amount apportioned in respect of each estate in the remaining parganas shall bear to the land-revenue payable for such estate.]

Apportionment amongst tenure-holders.

59. The Collector shall, in like manner, [except in respect of the said embankments on the right bank and left bank of

of 1882.]

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 60-63.)

the river Gandak,] charge or apportion the amount payable in respect of each estate upon or amongst the holders of the tenures therein rateably in the proportion of benefit so received or of area so benefited or protected, first deducting therefrom such sum as, on the like principle of proportion, is payable in respect of such portion of the estate as is not included within any tenure.

60. All lands held without payment of rent, not being estates, may, for the purposes of this Act, be deemed to form part of any estate or of any tenure within the local boundaries of which they are included; and if they are not included within the local boundaries of any estate, then to be a part of such contemurinous estate as the Collector in whose district such contemurinous estate is situated shall, by an order under his seal and signature, declare.

Provisions to lands held without payment of rent not being estates.

61. The amount charged to or apportioned on any estate or tenure shall be payable in equal instalments on such days as the Lieutenant-Governor¹ shall direct²: Provided that no instalment shall exceed four annas for every acre of land in respect of which the same is payable, and that not more than four instalments shall be payable in any one year.

Amount apportioned payable by instalment

Interest shall be charged on the unpaid portion of the said amount from the date of apportionment until payment thereof at five *per centum* or at such rate, not exceeding five *per centum per annum* as the Lieutenant-Governor¹ may from time to time determine.

Interest.

62. If after the apportionment of the expenses of any works and repairs as above prescribed any expenses not included in such apportionment shall be found to have been paid or to have become payable on account of the said works or repairs, whether as compensation or otherwise, the Collector may proceed to apportion such further expenses in the manner in this Part provided.

Apportionment of further expenses

63. Instead of the procedure prescribed above for charging upon, and recovering from, *zamindars*, the expenses actually incurred in the repairs and maintenance of public embankments and water-courses and the works connected therewith, the Lieutenant-Governor¹ may by an order to be published in the Calcutta Gazette, direct that an estimate be made of the expenses to be incurred in respect of such repairs, maintenance and works during any number of years, not exceeding thirty, which he may think fit;

Alternative power of apportionment estimated expenditure for a series of years.

and may by a subsequent order³ fix the total sum payable during such number of years by the *zamindars* of the estates benefited by such repairs, maintenance and works:

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² For lists of orders made under paragraph 1 of section 61 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ For a list of orders made under this paragraph of section 63 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 64-66.)

Provided that no order fixing such total sum shall be passed by the Lieutenant-Governor¹ until three months after the amount of such estimate shall have been published in the Calcutta Gazette, and by a general notice calling on all persons interested to prefer to the Collector any objections they may think proper against such amount being fixed as the total sum. Every such objection shall be submitted to the Lieutenant-Governor¹ for his consideration.

Period
included in the
last section,
what to
include.

64. The period fixed in any order under the section last preceding may include also years previous to the commencement of this Act:

Provided that in such case the total sum mentioned in the said section shall be calculated by adding the amounts actually expended before the making of such order to the estimate of expenses to be incurred during the rest of the period included in such orders.

Works in
respect of
which such
estimate may
be made.

65. The total sum mentioned in section 63 or in section 64 may be made recoverable in respect of the expenses of repairs and maintenance, and the expenses of works connected with the repairs and maintenance—

- (a) of any protective works which may be specified in such orders;
- (b) of all the public embankments and water-courses in any district; or
- (c) of all the public embankments and water-courses within any tract of country specified in the order of the Lieutenant-Governor¹ and any such tract may contain the whole or portions of any one or more districts;

and no further sum shall be recoverable during such period in respect of the expenses of such repairs, maintenance and works connected therewith save so far as any such works or repairs are executed under the provisions of section 18 or of section 31.

But such total sum shall not include the expenses of executing any new works which may be undertaken under the provisions of this Act within any district or tract as aforesaid.

Recovery of
cost of new
works.

Whenever the Lieutenant-Governor¹ shall declare that any work executed or to be executed within such district or tract is a new work within the meaning of this section, the cost of executing such work and of maintaining the same shall be payable by the *zamindars* to the Collector under the provisions of this Act, in addition to any total sum fixed under section 63 or section 64 as payable by them.

Mode of
apportion-
ment.

66. On publication of any order of the Lieutenant-Governor¹ under section 63, the Collector shall proceed to charge or apportion the said total sum upon or among the *zamindars* and [except in respect of the embankments on the right and left

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

of 1882.]

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 67-71.)

banks of the river Gandak as provided in section 58] among tenure-holders who are liable to pay the same, as above provided.

67. The sum so apportioned in respect of any estate or tenure on account of any such period as is mentioned in section 63 shall be payable in equal portions in each of the years included in such period, and each such portion if unpaid shall carry interest at five *per centum*, or at such rate, not exceeding five *per centum per annum*, as the Lieutenant-Governor¹ may from time to time determine, from the end of the year in which it is payable.

Payment
of sum
apportioned.

68. On the completion of any charge or apportionment under this Act, the Collector shall make an order specifying the estates and tenures in respect of which any sum charged or apportioned is payable, and the sums payable in respect of each of the instalments of such sums, and the dates on which such sums are payable.

Final order of
apportion-
ment.

3.—Recovery thereof.

69. As soon as may be after any final order of apportionment is made, as provided in the section last preceding, the Collector shall cause copy of such order to be published with a general notice stating that the amounts apportioned on the *zamindars* in respect of estates are payable to the Collector, and the amounts apportioned on the tenure-holders in respect of tenures are payable to the *zamindars* or superior tenure-holders. Instead of causing a general notice to be published, the Collector may cause special notices to the same effect to be served in respect of every estate and tenure on or among the *zamindars* or tenure-holders of which any sum is charged or apportioned.

Publication of
final order of
apportion-
ment.

70. If any such sum payable to the Collector, or any instalment thereof, be not pursuant to the said order, paid, the same with interest may be recovered as arrears of a demand under the provisions of the Public Demands Recovery Act, 1880, or any similar Act² for the time being in force.

Recovery
of sums
apportioned.

Ben. Act 7 of
1880.

71. When a recorded sharer of a joint revenue-paying estate has opened a separate account under Act 11 of 1859,³ or under section 70 of Bengal Act 7 of 1876⁴ or any similar law for the time being in force for the regulation of the opening and maintaining of such separate accounts, he shall be entitled, in regard to the payment and realization of all sums due under this Act, to all the advantages of separate liability enjoyed by

Effect of open-
ing separate
account under
Act 11 of
1859 or Ben.
Act 7 of
1876.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² See now the Bengal Public Demands Recovery Act, 1918 (Ben. Act 8 of 1918 printed in vol. III of this Code). See also section 72 on next page.

³ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

⁴ The Land Registration Act, 1876. It is printed *ante*, p. 845.

(Part VI.—Cost of Works, Proceedings, etc.—Secs. 72-74.)

him under the said Act 11 of 1859,¹ and Bengal Act 7 of 1876,² respectively, in regard to the payment and realization of revenue, and shall be entitled to separate assessment and to the issue of a separate notice in every case in which special notice is, by this Act, required to be served, from the date on which such advantages shall take effect in respect of the demand of Government revenue.

Similar privileges shall attach to every recorded holder of a revenue-free estate who has opened a separate account under section 46 of Bengal Act 9 of 1880³ in respect of the amount of cesses payable by him.

Liability of
estate for sum
apportioned.

72. Notwithstanding anything contained in section 70, any such sum shall be a first charge on the estate in respect of which it is apportioned, and shall be deemed to be a demand debited to the estate in the public accounts of the district within the meaning of section 31 of Act 11 of 1859,⁴ and such charge shall not be avoided by any sale, nor shall the joint liability of the entire estate for such sum be affected by any partition of the said estate which may subsequently take place.

Amount ap-
portioned may
be raised by
leasing or
mortgaging
estate

73. If the Collector thinks it inexpedient to proceed for the recovery of such sum or any part thereof under the provisions of section 70, or having so proceeded shall have failed to realize the sum due, he may, with the sanction of the Board of Revenue,⁵ raise the amount necessary to discharge the sum or instalment remaining unpaid—

- (a) by mortgaging the whole or any part of such estate;
- (b) by letting in farm or managing by himself or another the whole or any part of such estate;
- (c) partly by one of such modes and partly by another or others of them.

For the purposes of this section the Collector may exercise all the powers of the owner of such estate, and his signature shall be a good and sufficient signature to any document necessary to carry into effect the said purposes.

Recovery by
zemindars
and tenure-
holders.

74. Every *zamindar* or tenure-holder to whom any sum or instalment thereof is payable under an order made in pursuance of section 68 may recover the same with interest as aforesaid in the manner provided for the recovery of arrears of rent in respect of *patni* tenures by the provisions of clauses 2 and 3 of section 8, sections 9, 10, 14, 15, and clauses 1, 2 and 3 of section 17 of Regulation 8 of 1819,⁶ as amended by Bengal Act 8 of 1865,⁷ or by the provisions of any similar Act for the time being in force:

¹ The Bengal Land-revenue Sales Act, 1859. It is printed in Vol. I of this Code.

² The Land Registration Act, 1876. It is printed *ante*, p. 846.

³ The Cess Act, 1880. It is printed *ante*, p. 529.

⁴ As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (B-n. Act 2 of 1913).

⁵ The Bengal Patni Taluks Regulation, 1819. It is printed in Vol. I of this Code.

⁶ The Bengal Rent Recovery (Under-tenures) Act, 1865. It is printed *ante*, p. 47.

of 1882.]

(Part VII.—Penalties.—Secs. 75-77.)

Provided that the right or interest of any person holding from the defaulter shall not be affected by any sale held under these provisions.

PART VII.

PENALTIES.

45 of 1880.

75. Whoever wilfully obstructs any person duly authorized under this Act in removing or levelling any embankment, house, hut or other building, or in the lawful exercise of any of the powers in this Act conferred, shall, in case such obstruction shall not amount to an offence within the provisions of the Indian Penal Code,¹ be liable to imprisonment of either description for any period not exceeding six months, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees.

Penalty for obstructing persons in exercise of powers conferred by Act.

76. (a) Every person who, in any of the territories to which this Act extends, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course, if such act is likely to interfere with, counteract or impede any public embankment or any public water-course;

Penalty for unauthorised interference with embankments or drainage.

(b) every person who, within the limits of the tract included in any prohibitory notification under section 6, without the previous permission of the Collector, shall erect, or cause or wilfully permit to be erected, any new embankment, or shall add to any existing embankment, or shall obstruct or divert, or cause or wilfully permit to be obstructed or diverted, any water-course; and

Penalty for unauthorised interference with embankments or drainage in prohibited tract.

(c) every person who shall abet any such act as is mentioned in clauses (a) and (b),

Penalty for abetment of such acts.

shall be liable, on conviction, to a fine not exceeding five hundred rupees or in default of payment to imprisonment of either description for a period not exceeding six months.

77. No person shall, without due authority, cut through, or attempt to cut through, any public embankment, or destroy, or attempt to destroy, any such embankment, or open or shut, or obstruct any sluice in any such embankment, or any public water-course; and every person who shall commit any breach of the provisions of this section shall in case the act shall not amount to mischief within the meaning of the Indian Penal Code,² be liable to imprisonment of either description for a

Penalties for injuring embankment etc.

45 of 1880.

¹Printed in the General Acts, 1834-57, Ed. 1909, p. 248.

²See Act 45 of 1860, s. 425, in General Acts, 1834-57, Ed. 1909, p. 562.

(Part VII.—Penalties.—Part VIII.—Miscellaneous.—
Secs.—78-80.)

term not exceeding one month, or to a fine not exceeding two hundred rupees.

Penalties for
diverting
rivers or
permitting
cattle to
graze on
embankments,
etc.

78. Every person who shall make any dam or other obstruction for the purpose of diverting or opposing the current of a river or water-course wherein or whereon there are public embankments, without the permission of the officer in immediate charge of the embankments,

or shall refuse or neglect to remove any such dam or obstruction so made by him when required to remove it by the Engineer, or without the permission of the Engineer previously obtained shall cut or otherwise alter the banks of any embanked river or water-course, or remove the earth from any public embankment, or drive stakes into it, or by any other wilful act destroy or diminish the efficiency of such embankment;

and every person who without such permission shall cause or knowingly and wilfully permit any cattle to graze upon any such embankment or tether or cause or wilfully permit any cattle to be tethered upon any such embankment, or root up any grass or other vegetation growing on any such embankment,

shall be liable to imprisonment of either description for a term not exceeding six months, or to a fine not exceeding two hundred rupees.

Obstructions
to be removed
and damage
repaired.

79. Whenever any person is convicted of an offence under either of the three last preceding sections, the convicting Magistrate may order that he shall remove the embankment or obstruction, or repair the damage, in respect of which the conviction is held, within a period to be fixed in such order.

If such person neglects or refuses to obey such order within the fixed period, the Engineer may remove such embankment or obstruction or repair such damage, and the cost of such removal or repair shall be levied from such person in addition to any other penalty in the manner provided in section 307 of the Code of Criminal Procedure.¹

10 of 1872.

PART VIII.

MISCELLANEOUS.

Code of
publishing
proclamation
and issuing
notices.

80. Every proclamation and general notice by this Act required to be issued or given shall be published by affixing a copy of the same in the office of every Collector, Sub-divisional Officer and *Munsif* within his jurisdiction, and at every police-station within the limits of which any lands affected by

¹ Act 10 of 1872 was repealed and re-enacted by Act 10 of 1882, which again has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to sections 386, 387 and 389 of the latter Act—*viz.* s. 3(2) thereof, in General Acts, 1898-1903. Ed. 1903, p. 49.

[1882.]

(Part VIII.—Miscellaneous.—Secs. 81-83.)

such proclamation or notice are known by the Collector to be situated; and by affixing copies of the same in conspicuous positions in such *hâts*, *bazars*, towns, villages or other public places (as the Collector may direct; and also by giving notice by beat of drum at such public places) that such copies have been affixed and that one copy of the papers containing the information which is the subject of such proclamation or general notice is open to inspection by all concerned at the office of the Collector.

81. Every special notice or order by this Act required to be served shall be served,—

Service of special notices.

- (1) by delivering a copy of the same to the person to whom it is directed, or, on failure of such service, by posting a copy on some conspicuous part of the house in which the said person resides, or by delivering a copy to any agent authorized to appear generally for the person to whom such notice or order is directed; or
- (2) by sending a registered letter containing a copy of such notice or order directed to the said person at his usual place of abode, or at the place where he may be known to reside; or
- (3) by posting a copy of the notice or order at the *mâl-cutcherry* of the estate, village or tenure to which the same relates; or, if no such *mâl-cutcherry* be found, on some conspicuous place on the said estate, village or tenure; or
- (4) if the person on whom the notice or order is to be served is a *zamindar*, by delivering a copy thereof to the agent who shall have paid an instalment of revenue next before or who may pay the instalment next after the preparation of such notice or order, on behalf of such *zamindar*.

In all cases where two or more persons are holders of an estate or tenure, service under the last two clauses shall be deemed to be good and sufficient service on each and all of such persons.

82. In any inquiry or appeal held under this Act, the Collector and the Commissioner shall respectively have the same powers as those conferred on Courts by the Code of Civil Procedure¹ of summoning and examining witnesses and compelling the production of documents.

Powers of Collector and Commissioner on inquiry and appeal.

83. No proceedings under this Act shall be impeached or affected by reason of any mistake in the name of any person thereby rendered liable to pay any sum of money, or in the description of any estate or tenure or land in respect of which he is rendered liable to pay, provided the directions of this

No proceedings to be impeached for mistake or want of form.

14 of 1882.

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (5 of 1908), and this reference should now be taken to be made to the latter Code—see s. 158 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

(Part VIII.—Miscellaneous.—Secs. 84-87.)

Act be in substance and effect complied with; and no proceedings under this Act shall for want of form be quashed or set aside in any Court of Justice.

Appeal from
orders.

84. Every order passed by the Collector in respect of applications under section 18, and every order passed under sections 11, 50, 52 or 68, shall be appealable to the Commissioner of the Division, and every such order of the Commissioner, except when otherwise directed by this Act, shall be appealable to the Board of Revenue;¹ but no appeal shall lie under this section against any order unless the same be presented within one month from the date of the order.

General
control of
Commissioner
and
Government.

85. All the powers of a Collector under this Act shall be exercised under the general control and orders of the Commissioner of the Division, and all the powers of Collectors and Commissioners shall be exercised subject to the general control and orders of the Board of Revenue¹ and of the Government.

Every order passed by any of the said authorities shall be subject at any time to be varied or set aside by the controlling authority.

Orders to be
final.

86. Subject to the provisions of the two sections last preceding, every order passed by the Collector in respect of applications under section 18 and every order passed under sections 11, 50, 52 or 68, and every order passed by a controlling authority in respect of such order of a Collector, shall be final, and not liable to be modified or altered otherwise than as expressly provided in this Act.

Disposal of
lands no
longer
required for
embankments.

87. Whenever the maintenance of any public embankment, or the retention of any land appropriated to the purposes thereof, may no longer be required, and the permanent relinquishment of the same may be deemed expedient, such land shall be restored by the Collector to the estate or tenure from which such land was originally taken on repayment of the compensation, if any, which was paid for such land when the same was taken for the purpose of the embankment.

If persons who are entitled to the restoration of any land under this section, or any of them, refuse or neglect to pay such price within a reasonable time after demand, the same shall be sold by the Collector as a revenue-free holding for such price as he can obtain for the same.

All sums obtained for lands conveyed under the provisions of this section shall, after the payment of all expenses incurred on account of the same, be applied to the payment of the cost of any new embankment or drainage-works, or of the expenses of maintaining any embankment or drainage-works affecting the said lands and other adjacent lands, in reduction of the amount chargeable upon the *zamindars* and tenure-holders of the lands benefited, as hereinbefore provided, if any amount be so chargeable.

¹As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1913 (Ben. Act 2 of 1913).

of 1882.]

(Part VIII.—Miscellaneous.—Secs. 88-91.)

88. A Collector may delegate any of his powers under this Act to a Deputy Collector; but from any order passed by a Deputy Collector to whom powers have been so delegated an appeal shall lie to the Collector if presented within thirty days of the date of the order.

Collector may delegate any of his powers to a Deputy Collector.

Every such delegation of power shall be reported to the Commissioner of the Division.

89. All offences created by this Act shall be inquired into and tried by a Magistrate of the first or second class.

Jurisdiction.

90. The Lieutenant-Governor¹ may from time to time make rules², consistent with the provisions of this Act, to regulate the following matters :—

Power to make, alter and cancel rules.

- (a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;
- (b) the business of Embankment Committees;
- (c) the cases in which, the officers to whom and the conditions subject to which orders and decisions given under any provision of this Act, and not expressly provided for as regards appeal, shall be appealable;
- (d) the person by whom, the time, place or manner at or in which anything for the doing of which provision is made in this Act, shall be done;
- (e) the amount of any charge made under this Act; and
- (f) generally to carry out the provisions of this Act.

The Lieutenant-Governor¹ may from time to time alter or cancel any rules so made.

Such rules, alterations and cancelment shall be published in the Calcutta Gazette, and shall thereupon have the force of law:

Publication of rules.

Provided that no rules shall be made by the Lieutenant-Governor¹ under the powers conferred on him by this section until a draft of the same shall have been published in the Calcutta Gazette for one month, after which time the Lieutenant-Governor¹ may pass such rules as originally published, or with such alterations, additions and omissions as he may think fit.

91. Nothing in this Act shall apply to any embankment, land or watercourse which is under the operation of any of the following Acts :—

Saving of operation of certain Acts

Ben. Act 6 of 1880.
Ben. Act 3 of 1876.

the Bengal Drainage Act, 1880,³
the Bengal Irrigation Act, 1876,⁴

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of rules made under section 90 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Printed ante, page 491.

⁴ Printed ante, page 218.

(Part IX.—*Special Provisions for the Province of Orissa.*—
Secs. 92-94.—Schedules I, II.)

Bengal Act 5 of 1864¹ (*an Act to amend and consolidate the law relating to the collection of Tolls on Canals and other lines of navigation, and for the construction and improvement of lines of navigation, within the provinces under the control of the Lieutenant-Governor of Bengal.*)

PART IX.

SPECIAL PROVISIONS FOR THE PROVINCE OF ORISSA.

92 to 94. [*Omitted as being inapplicable to the Presidency of Fort William in Bengal.*]

SCHEDULE I

(*Referred to in section 2.*)

(Portions of Bengal Act 6 of 1873 which are not repealed.)

12. } [Printed *ante*, p. 235.]
13. }
21. Proviso. [Printed *ante*, p. 235.]
26. }
27. } [Printed *ante*, p. 236.]
28. }
29. }

Schedules B, C, D and E.²

SCHEDULE II

(*Referred to in section 2.*)

Section of Bengal Act 6 of 1873 in which the reference is made.	The reference as it stands.	To what portion of the present Act the reference is to be read to apply.
Section 12	To "the last preceding section."	Section 25.
Section 12	To section 18 ...	Section 30.
Section 12	To section 25 ...	Section 37.
Section 21	To "such proceedings"	Section 19.
Section 26	To Part III ...	Part III.
Section 26	To "this Part" ...	Part V.

¹ The Canals Act, 1864. It is printed *ante*, p. 21.

² Printed *ante*, pages 234 to 270.

of 1882.]

(Schedule III.)

SCHEDULE III

(Referred to in section 8).

Notice is hereby given, as required by section 8, Bengal Act 2 of 1882, to all persons interested, that it appears to the Collector that the following work should be done; that is to say [here state the nature of the work and the purpose for which it is to be undertaken.]* *For the execution of this work the undermentioned land will be required to be taken up:—*

1	2	3
<i>Pargana</i> in which land is situated	Village in which land is situated.	Area of land.

Estimates of the proposed work, with the necessary specifications and plans, together with a copy of the survey map showing the lands likely to be affected by the said work, are open for inspection at this office by any interested person, who is allowed to take copies thereof.

†The total probable cost of such work will be the sum of Rs. and the rate per acre of the area benefited or protected by the said work is estimated at Rs.

The following estates and villages will probably be affected by the work proposed (*here set out a list of the estates and villages*).

Any person interested and wishing to show cause against the execution of the works specified is hereby required to appear before the Collector for that purpose on the day of

The day of

A. B.,

Collector of

* The words in italics and the tabular form to be omitted if no land is to be acquired.

† These words may be omitted, unless it is proposed to recover the cost of the work from the *zamindars* and *tenure-holders*.

BENGAL ACT 3 OF 1883

(THE BENGAL TRAMWAYS ACT, 1883).

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BENGAL ACT 3 OF 1883

(THE BENGAL TRAMWAYS ACT, 1883).¹

(2nd May, 1883.)

An Act to authorize the making and to regulate the working of Tramways in Bengal.

Whereas it is expedient to facilitate the construction and regulate the working of tramways within the territories subject to the Government of the Lieutenant-Governor of Bengal²; It is enacted as follows:—

Preamble.

1. This Act may be cited for all purposes as the Bengal Tramways Act, 1883.

Short title.

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. For the purposes of this Act the terms hereinafter mentioned shall, unless there be something repugnant in the subject or context, have the meanings hereinafter assigned to them:—

Interpretation.

the term "local authority" shall mean—

- (1) bodies of persons for the time being appointed or elected to conduct the affairs of any municipality under Bengal Act 5 of 1876 or other³ law for the time being in force for the purpose of regulating municipalities in Bengal;
- (2) any Board, Committee, Department or other body or person in whom a road as defined by this Act is vested, or who have the power to maintain or repair such road;

"Local authority."

the term "area" in relation to a local authority shall mean the area within the jurisdiction of such local authority;

"Area."

the term "municipality" shall mean any place in which Bengal Act 5 of 1876 or any other³ law for the time being in respect of Bengal municipalities is in force;

"Municipality."

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1883 Pt. IV, p. 46; for Report of Select Committee, see *ibid.*, p. 61; and for Proceedings in Council, see *ibid.*, Supplement, pp. 42, 47, 229 and 528.

LOCAL EXTENT.—This Act was passed for the whole of the former Province of Bengal—see the Preamble.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

SIMILAR ACTS.—The Indian Tramways Act, 1884 (31 of 1884—printed in General Acts, 1879-86, Ed. 1906, p. 668), which runs on lines similar to those of the present Act, does not extend to Bengal. The Governor in Council is, however, empowered by s. 2 of the Act to extend it to Bengal or any part thereof. See also the Calcutta Tramways Act, 1880 (Ben. Act 1 of 1880), *ante*, p. 439.

² This includes the present Presidency of Fort William in Bengal and other territory.
³ Ben. Act 5 of 1876 has been repealed and re-enacted by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), *post*, p. 709.

(Part I.—Orders by the Local Government authorizing the construction of Tramways.—Secs. 3, 4.)

- "Road." the term "road" shall mean any carriage way, being a public thoroughfare, and the carriage way of any bridge forming part or leading to the same ;
- "Tramway." the term "tramway" shall mean a tramway constructed under this Act.¹

PART I.

ORDERS BY THE LOCAL GOVERNMENT AUTHORIZING THE CONSTRUCTION OF TRAMWAYS.

By whom orders authorizing the construction of tramways may be obtained.

3. An order made by the Local Government authorizing the construction of any tramways in any municipality or area may be obtained by—

- 1st, the local authority of such municipality or area ;
2nd, any person, persons, corporation or company with the consent of such local authority.

And any such local authority, person, persons, corporation or company shall be deemed to be "promoters" of a tramway, and are in this Act referred to as "the promoters."

When applications for authority to construct tramways may be made.

Where the local authority consists of a body of persons, Board or Committee, no application shall be made to the Local Government for the purpose of authorizing the construction of tramways in a municipality or area until a resolution, approving of the intention to make such application, shall be passed at a special meeting of the members constituting the local authority in such municipality or area.

Such special meeting shall not be held unless a month's previous notice of the same and of the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given, and such notice shall require that all objections to the proposed tramways shall be submitted for the consideration of the local authority before the date fixed for the special meeting.

Such resolution shall not be passed unless two-thirds of the members constituting such local authority are present and vote at such special meeting and a majority of those present and voting concur in the resolution.

Documents to be forwarded with application.

4. At the time of making an application for such order the promoters shall also forward to the Local Government—

- 1st, a memorial signed by the promoters descriptive of the undertaking ;
2nd, a copy of the proceedings and resolution of the special meeting held under the provisions of section 3 ;

¹ For an explanation of the term "promoters," see s. 5, on this page.

[of 1883.]

(Part I.—Orders by the Local Government¹ authorizing the construction of Tramways.—Secs. 5-7.)

3rd, a copy of the provisional agreement made between the promoters and local authority, where the promoters are not themselves the local authority;

4th, an estimate of the proposed works, signed by the persons making the same;

5th, all necessary maps, plans, sections and drawings of the proposed work.

5. The Local Government shall consider the application, and may, if it think fit, direct an inquiry as to the propriety of proceeding upon such application, and it shall consider any objection thereto that may be filed on or before such day as it may from time to time appoint.

Local Government may determine on application and objection.

Where it appears to the Local Government expedient and proper that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, the Local Government may settle and make an order¹ accordingly, and such order shall be published in the Calcutta Gazette.

Local Government may make and publish order.

Every such order shall empower the promoters therein specified to make the tramway upon the gauge and in manner therein described, and shall contain such provisions, fix such maximum rates of fare and prescribe such penalties for default as (subject to the provisions of this Act) the Local Government, according to the nature of the application and the facts and circumstances of each case, thinks fit.

Form and contents of order.

Where the promoters are not the local authority, the order shall set forth the agreement made between the promoters and the local authority, and one of the provisions of such agreement shall settle the manner in which the value of the tramway shall be calculated in the event of its purchase by the local authority, under sections 39, 40 or 41.

6. The Local Government, on the application of any promoters empowered by an order to construct a tramway, may from time to time revoke, amend or vary such order by a further order²:

Power to revoke, amend or vary order.

Provided that, whenever the promoters are not the local authority, the Local Government shall, before passing such order, call upon the local authority to state any objection it may have to such application.

7. Subject to, and in accordance with, the provisions of this Act, the Local Government may, on a joint application, or on two or more separate applications, settle and make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a

Power to authorize joint work.

¹ For a list of orders made under section 5 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² For lists of orders made under section 6 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

[Ben. Act 3]

(Part I.—Orders by the Local Government authorizing the construction of Tramways.—Secs. 8-12.)

tramway, and jointly or separately to own the whole or parts thereof; and all the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of such tramway as last aforesaid; and the form of the order may be adapted according to the circumstances of the case.

Local Government may in certain cases dispense with consent of local authority.

8. Where it is proposed to lay down a tramway in two or more areas, and any local authority having jurisdiction in any of such areas does not consent thereto, the Local Government may nevertheless make an order authorizing the construction of such tramway, if it is satisfied after inquiry that two-thirds of the length of such tramway is proposed to be laid in an area or areas the local authority of which area or areas does consent thereto.

Promoters' powers to cease at expiration of prescribed time.

9. If the promoters empowered by any order under this Act to make a tramway do not, within the period prescribed in such order, complete the tramway and open it for public traffic; or,

if the works, are not substantially commenced within the latest date prescribed in such order for their commencement, or,

if the works, having been commenced, are suspended without a reason sufficient, in the opinion of the Local Government, to warrant such suspension;

the powers given by the order to the promoters for constructing such tramway, executing such works, or otherwise in relation thereto, shall cease to be exercised to the extent and in the manner specified in such order.

A notice inserted by the Local Government in the Calcutta Gazette to the effect that a tramway has not been completed and opened for public traffic, or that the works have not been substantially commenced, or that they have been suspended without sufficient reason, shall be conclusive evidence for the purposes of this section of such non-completion, non-commencement or suspension.

Payment of expenses when local authority are promoters.

10. When the local authority of any area are the promoters of any tramway, the expenses incurred by them in constructing and working such tramway under the provisions of this Act, including the expenses preparatory thereto, may be paid out of the funds under the control of such local authority.

Rent for use of road when local authority are not promoters.

11. When the local authority are not the promoters, they may fix and demand from the promoters such rent for the use of roads as may be agreed upon.

Application of rent or tolls.

12. Any moneys received, by any local authority by way of rent or tolls in respect of any tramway constructed and worked under the provisions of this Act may be applied by them to the purposes for which other funds under the control of such local authority may be applied.

of 1883.]

(Part I.—Orders by the Local Government authorizing the construction of Tramways.—Part II.—Construction of Tramways.—Secs. 13-15.)

13. The Local Government may from time to time make, and when made may revise, modify, annul, add to or confirm, any rules it may be expedient to make for the purpose of carrying this Act into execution. Power to make rules.

PART II.

CONSTRUCTION OF TRAMWAYS.

14. Every tramway shall be constructed and maintained on such gauge and in such manner as may be specified in the order of the Local Government empowering the construction of such tramway, and, before the work of construction is begun, the maps, drawings and specification showing the proposed construction of such tramway shall be submitted to the local authority and be approved by it, and the cars and carriages intended to run on the tramways shall also be of such construction and furnished with such brakes and other appliances as shall have been approved by such local authority. Form in which tramways are to be constructed and maintained.

15. The promoters may from time to time, for the purpose of constructing and maintaining any tramways under this Act, open and break up the soil and pavement of any of the roads upon which the construction and maintenance of such tramway has been authorized by the order of the Local Government in that behalf, and therein lay sleepers and rails, and repair, renew, alter or remove the same; and may, for the purposes aforesaid, do in and on such roads all other acts which shall from time to time be necessary for constructing and maintaining their tramways: Power to break up streets.

Provided that, when the powers granted under this section shall be exercised by the promoters who are not the local authority, such powers shall be exercised subject to the following regulations:—

1st.—They shall give to the local authority notice in writing of their intention to open or break up any such road, specifying the time at which they will begin to do so, and the portion of the road proposed to be opened or broken up. Such notice to be given at least seven days before the commencement of the work.

2nd.—They shall not open, or break up or alter the level of any such road, except under the superintendence and to the reasonable satisfaction of the local authority, for which superintendence the promoters shall pay all reasonable expenses, unless the local

(Part II.—Construction of Tramways.—Secs. 16, 17.)

authority neglect to give such superintendence at the time specified in the notice, or discontinue the same during the work.

3rd.—They shall not, without the consent of the local authority in writing, open or break up at any one time a greater length than a quarter of a mile in any one length, and shall leave an interval of at least a quarter of a mile between any two such places at which they may open or break up such road.

4th.—They shall, with all convenient speed, and in all cases within two calendar months at the most, unless the local authority otherwise consent in writing, complete the work for which the said road shall be broken up, and fill in the ground, and make good the surface, and, to the reasonable satisfaction of the local authority, restore the road to as good a condition as that in which it was before it was opened or broken up and clear away all surplus materials or rubbish occasioned thereby.

5th.—They shall in the meantime, when such road is opened or broken up, cause it to be fenced and watched, and to be properly lighted at night.

6th.—They shall make good all damage done to the gas and water-pipes, sewers, drains, culverts, bridges and fences, whether belonging to the local authority or to private individuals, by the disturbance thereof, and shall not cause any interruption in the supply of gas in or through any main or pipe, or the flow of water through any pipe, drain, culvert, bridge or other waterway; if they fail to make such damage good, or to remove such interruption within reasonable time, the local authority may, without prejudice to the penalties payable under section 29, cause the same to be made good at the promoters' expense.

16. The promoters shall at their own expense at all times maintain and keep in good condition and repair, in such manner as the local authority shall direct the rails of which any of their tramways shall for the time being consist, and so much of any road as lies between the rails of any tramways; and, in the case of double lines or turnouts or sidings the portion of the road between the tramways, and in every case so much of road as extends eighteen inches beyond the rails of and on each side of any such tramways; and in the course of carrying out repairs it shall not be necessary to give notice thereof to the local authority.

Promoters to keep the tram way roads in proper repair.

17. In exercising the powers given to them by the last two preceding sections the promoters shall arrange their work so as to afford the least possible obstruction to the ordinary

Promoters not to obstruct ordinary traffic.

of 1883.]

*(Part II.—Construction of Tramways.—Part III.—
Working of Tramways.—Secs. 18-22.)*

traffic of the roads or to the ordinary means of approach to houses situated on either side of the roads, and so as to admit of as free and unrestricted entry at all times into the sewers, drains, culverts and bridges for the time being in use as is possible under the circumstances and also so as to enable proper repairs to be made to water or gas-pipes by the direction of the local authority.

18. Nothing in this Act, or in any by-law made under this Act, shall take away or abridge the right of the public to pass along or across every or any part of any road along or across which any tramway is laid, whether on or off the tramway, with carriages not having flange wheel or wheels suitable to run on rails. But the right of the public shall not include the use of any new roadway, embankment or earthwork constructed or acquired for the special and exclusive use of the tramway.

Reservation
of right of
public to use
roads.

19. Notwithstanding anything in this Act contained the promoters shall not acquire, or be deemed to acquire, any right other than that of user of any road along or across which they lay any tramway.

Right of user
only.

PART III.

WORKING OF TRAMWAYS.

20. No tramway shall be opened for public traffic until the same has been inspected and certified by an Engineer or other officer, appointed in that behalf by the Local Government, to be fit for such traffic.

No tramway
to be opened
without
certificate
from
Engineer.

21. When a tramway has been completed under the provisions of this Act and certified to be fit to be opened for public traffic under the last preceding section, the local authority or other promoters may, subject to the provisions of this Act, place and run carriages on such tramway, and demand and take tolls and charges in respect of the use of such carriages; or may, by lease to be approved of by the Local Government, demise to any person, persons, corporation or company the right of user by such person, persons, corporation or company of the tramway, and of demanding and taking in respect of the same the tolls and charges authorized; or such authority may leave such tramway open to the public, and may in respect of such user demand and take the tolls and charges authorized.

Local author-
ity may lease
or take tolls.

22. The cars and carriages of the promoters on the lines of the tramway shall be worked with such power, animal, mechanical or otherwise, as may be specified in the order issued by the Local Government under section 5.

Carriages how
to be worked.

(Part III.—Working of Tramways.—Secs. 23-28.)

Promoters
may use
tramway
carriages
with flange
wheels.

23. The promoters may use on their tramways carriages with flange wheels or wheels suitable for running on the prescribed form of rail, and, subject to the provisions of this Act, they shall have the exclusive use of their tramways for carriages with flange wheels, or other wheels, suitable for the said form of rail.

Promoters
may fix and
demand fares.

24. The promoters shall have power from time to time to fix the rates of fares for carrying passengers and goods in the said cars or carriages, and may demand and take the same for every passenger travelling upon any of their tramways, or for the carriage of goods by their tramways:

Provided that the rate of fare for each person or parcel shall not exceed the maximum rates authorized in the order of the Local Government issued under section 5.

Printed list
of fares, etc.,
to be placed
in carriages.

25. A printed list, in English and the vernacular of the district, of all the fares and charges fixed under the authority of the last preceding section, and a printed copy in the same languages of all by-laws in force as hereinafter mentioned, shall be exhibited in a conspicuous place inside each of the cars or carriages used by the promoters upon any of their tramways.

Fares how
to be paid.

The fares and charges fixed as aforesaid shall be paid to such persons at such places, upon or near to the tramways, and in such manner and under such regulations as the promoters may, by notice to be annexed to the list of fares, from time to time appoint.

By-laws by
local author-
ity.

26. The members constituting the local authority in a municipality or area in special general meeting may, subject to confirmation thereof by the Local Government, from time to time make such by-laws¹ as to the rate of speed, number of passengers and mode of use of the tramways as the convenience and safety of the public may require, and as are not inconsistent with this Act or any rules framed under section 13.

The promoters
may make
certain by-
laws.

27. The promoters may, subject to confirmation as aforesaid, from time to time make such by-laws¹—

for preventing disturbances, or the entry of persons suffering from infectious diseases, or the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to them; and

for regulating the travelling in or upon any carriage belonging to them:

Provided that such by-laws are not inconsistent with this Act or with any rules or by-laws framed under sections 13 and 26.

Publication of
by-laws.

28. All rules and by-laws made under sections 13, 26 and 27, and confirmed by the Local Government, shall, when

¹ For by-laws made under sections 26 and 27 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Es. VI.

of 1883.]

(Part IV.—Offences.—Secs. 29-31.)

so confirmed, be published in the Calcutta Gazette, and such rules and by-laws when so published shall, until repealed or altered, be of the same effect as if they had been inserted in this Act:

Provided that no rules and by-laws shall be confirmed by the Local Government until they shall have been published for at least one month previously in the Calcutta Gazette and in one or more of the local newspapers (if any exist) which circulate in the district to which such rules and by-laws relate.

PART IV.

OFFENCES.

29. If the promoters, not being the local authority, fail in any respect to comply with the provisions of sections 14, 15, 16, 17, 20 and 22 of this Act, they shall for every such offence (without prejudice to the enforcement of specific performance of the requirements of this Act, or to any other remedy against them), upon complaint of any person injuriously affected thereby, be liable to a penalty not exceeding two hundred rupees and to a further penalty not exceeding fifty rupees for each day during which any such failure continues after the first day on which such penalty is incurred.

Penalty for failure of promoters to comply with provisions of this Act.

30. If any person wilfully obstructs any person acting under the authority of the promoters in the lawful exercise of their powers in setting out or making, laying down, repairing or renewing a tramway, or injures or destroys any mark made for the purpose of setting out the lines of the tramway, he shall, for every offence, be liable to a penalty not exceeding fifty rupees, and shall also be liable to pay such damages as may be awarded in respect of such injury by any competent Court.

Penalty for obstructing promoters in the exercise of their power.

31. If any person without lawful excuse (the proof whereof shall lie on him) wilfully does any of the following things, namely:—

Penalty for interfering with tramway.

interferes with, removes or alters any part of a tramway of the promoters, or of the works connected therewith;

does or causes to be done anything in such a manner as to obstruct any carriage using the tramways;

or knowingly aids or assists in the doing of such thing,

he shall for every such offence be liable (in addition to any proceedings by way of criminal charge or otherwise to which he may be subject) to a penalty not exceeding one hundred rupees.

(Part IV.—Offences.—Part V.—Miscellaneous.—Secs. 32-36.)

Penalty for
avoiding pay-
ment of
proper fare.

32. If any person travelling or having travelled in any carriage of the promoters avoids or attempts to avoid payment of his fare, or if any person having paid his fare for a certain distance knowingly and wilfully proceeds in any such carriage beyond such distance and does not pay the additional fare for the additional distance, or attempts to avoid payment thereof, or if any person knowingly and wilfully refuses or neglects on arriving at the point to which he has paid his fare to quit such carriage, every such person shall, for every such offence be liable to a penalty not exceeding ten rupees.

Servant of
promoters
may arrest
persons avoid-
ing payment
of fare.

33. It shall be lawful for any servant of the promoters to arrest and take to the nearest police-station any person who shall be discovered in committing or attempting to commit any such offence as in the last preceding section mentioned, and who shall refuse to give his name and residence, and is unknown to such servant.

Carriage of
dangerous or
offensive
goods.

34. No person shall be entitled to carry or to require to be carried on any tramway any goods which may be of a dangerous or offensive nature, and if any person send by any tramway any such goods without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing to the book-keeper or other servant of the promoters with whom the same are left at the time of such sending, he shall be liable to a penalty not exceeding fifty rupees for every such offence, and it shall be lawful for the promoters to refuse to accept or carry any parcel that they may suspect to contain goods of a dangerous or offensive nature, or to require the same to be opened to ascertain the fact.

Penalty for
breach of
by-laws.

35. Any person offending against any by-law made under the provisions of this Act shall forfeit for every offence any sum not exceeding twenty rupees to be imposed in such by-laws¹ as a penalty for such offence.

PART V.

MISCELLANEOUS.

Promoters to
be responsible
for all
damages.

36. The promoters shall be answerable for all accidents, damages and injuries happening through their act or default, or through the act or default of any person in their employment by reason or in consequence of any of their works or carriages, and in all cases where the promoters are not the local authority they shall save harmless the local authorities

¹ For by-laws made under section 35 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I., Part VI.

of 1883.]

(Part V.—Miscellaneous.—Secs. 37, 38.)

and their respective officers and servants from all damages and costs in respect of such accidents, damages and injuries.

37. Nothing in this Act shall limit the powers of the local authority or the police to regulate the passage of any traffic along or across any road along or across which any tramways are laid down, and such local authority or police may exercise their authority as well on as off the tramway, and with respect as well to the traffic of the promoters as to the traffic of other persons.

Power for the local authority or police to regulate traffic on roads.

The local authority shall not be liable to pay to the promoters any compensation for loss of traffic occasioned by the reasonable exercise of such authority.

38. Nothing in this Act shall be construed to prevent the local authority or any corporate body or persons, in the exercise of the powers conferred upon them under any law for the time being in force, from opening, breaking up, widening, altering, diverting or improving any of the roads, bridges, drains or culverts traversed by the tramways for the purposes for which they may now lawfully open, break up, widen, alter, divert or improve the same :

Reservation of power over roads

Provided—

- (1) that they shall cause as little detriment or inconvenience to the promoters as circumstances admit ;
- (2) that they may (if absolutely necessary, but not otherwise), order the temporary stoppage of traffic on the tramways or any of them on giving twenty-four hours' previous notice in writing to the promoters ;
- (3) that before they commence any work whereby the traffic on the tramway will be interrupted, they shall (except in cases of urgency, in which cases no notice shall be necessary) give to the promoters notice of their intention to commence such work, specifying the time at which they will begin to do so ; such notice to be given eighteen hours at least before the commencement of the work ;
- (4) that, in the event of their so interfering with or stopping the running of any tramway under this section, an abatement, proportioned to the length of road over which and time during which running is stopped, shall be made from the rent (if any) reserved and payable by the promoters ;
- (5) that any alteration of the position of any of the tramways, or the making good of any injury or damage that may be occasioned thereto by reason of such widening, alteration or improvement shall be executed by the promoters at the expense of the local authority.

(Part V.—*Miscellaneous*.—Secs. 39, 40.)*Discontinuance of Tramways.*

Tramways to
be removed
in certain
cases.

39. If at any time after the opening of any tramway for traffic the promoters discontinue the working of such tramway or of any part thereof for the space of three calendar months (such discontinuance not being occasioned by circumstances beyond the control of such promoters, for which purpose the want of sufficient funds shall not be considered a circumstance beyond their control), and such discontinuance is proved to the satisfaction of the Local Government, the Local Government, if it think fit, may by order declare that the powers of the promoters in respect of such tramway or the part thereof so discontinued shall from the date of such order be at an end, and thereupon the said powers of the promoters shall cease and determine unless the same are purchased by the local authority in manner by this Act provided.

Where such order has been made the Engineer or other officer appointed on that behalf by the Local Government may, at any time after the expiration of two months from the date of such order, remove the tramway or part of the tramway so discontinued, and the promoters shall pay to such Engineer or officer the cost of such removal and of the making good of the road by such Engineer or officer.

Such cost to be certified by such Engineer or officer, whose certificate shall be final and conclusive.

And, if the promoters fail to pay the amount so certified within one calendar month after delivery to them of such certificate or a copy thereof, such Engineer or officer may without any previous notice to the promoters (but without prejudice to any other remedy which he may have for the recovery of the amount) sell and dispose of the materials of the tramway or part of the tramway removed, either by public auction or private sale, and for such sum or sums and to such person or persons as such Engineer or officer may think fit; and may out of the proceeds of such sale make and re-imburse himself the amount of cost certified as aforesaid and of the costs of sale, and the balance (if any) of the proceeds of the sale shall be paid over by the said Engineer or officer to the promoters.

Inability of Promoters.

Proceedings
in case of
inability of
promoters.

40. If at any time after the opening of any tramway it appears to the local authority, or to the Magistrate of the district in which such tramway is situate, that the promoters of such tramway are insolvents, or that they are unable to maintain such tramway, or work the same with advantage to the public,

the Local Government, upon a representation to that effect made by such Magistrate or local authority, may direct an inquiry by a referee into the truth of the representation,

of 1883.]

(Part V.—Miscellaneous.—Sec. 41.)

and if the referee shall find that the promoters are such insolvents, or that they are unable to maintain such tramway or work the same with advantage to the public, the Local Government may, by order, declare that the powers of the promoters shall, at the expiration of six calendar months from the making of the order, be at an end,

and the powers of the promoters shall cease and determine at the expiration of the said period unless the same are purchased by the local authority in manner by this Act provided; and thereupon the Engineer or other officer appointed on that behalf by the Local Government may remove the tramway in like manner, and subject to the same provisions as to the payment of the costs of such removal, and to the same remedy for the recovery of such costs in every respect, as in cases of removal under the last preceding section.

Purchase of Tramways.

41. The local authority shall have the right of purchasing the tramway, with the plant, buildings, stores, rolling-stock and everything connected therewith, upon the expiration of twenty-one years from the date of the order of the Local Government authorizing the construction of such tramway, upon declaring its intention so to do in writing not less than six months before the expiration of the said twenty-one years, and shall have a renewed right of purchase at the end of every seven years after the expiration of the said twenty-one years upon similar notice being given: and the value to be placed upon the tramway shall be calculated in a manner to be settled in the agreement entered into between the promoters and the said local authority and set forth in the order of the Local Government:

Local authority to have right of purchasing tramway after twenty-one years.

Provided that the promoters and the local authority may, with the consent of the Local Government, provide in the said agreement for the sale and purchase of the tramway on the expiration of any shorter¹ [or longer] periods than those hereinbefore specified.

¹ The words "or longer" were inserted by the Bengal Tramways (Amendment) Act, 1904 (Ben. Act I of 1904), s. 2, in Vol. III of this Code.

BENGAL ACT 5 OF 1883

[THE DAWHEELING AND KURSEONG MUNICIPAL (PORTERS) ACT, 1883].

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BENGAL ACT 5 OF 1883

[THE DARJEELING AND KURSEONG MUNICIPAL
(PORTERS) ACT, 1883].¹

(16th May, 1883.)

An Act for the Registration and Control of Porters and *Dandewallas* in the Darjeeling and Kurseong Municipalities.

Whereas it is expedient to provide for the registration and control of porters and *dandewallas* in the Darjeeling and Kurseong Municipalities; It is enacted as follows:—

Preamble.

1. In this Act the term "*coolie*" shall be limited to porters, and to *dandewallas* and other persons employed in carrying, drawing or propelling any vehicle.

Interpretation.

The term "Commissioners" means the Commissioners of the municipalities of Darjeeling or Kurseong constituted under the Bengal Municipal Act, 1884,² or other Act for the time being in force for the regulation of municipalities.

Ben. Act 3
of 1884.

2. This Act shall come into force in the Darjeeling and Kurseong municipalities respectively when extended thereto by an order³ of the Lieutenant-Governor published in the Calcutta Gazette.

Commencement.

Such order shall specify the date on which this Act shall commence in such municipality, and shall operate to extend the provisions of this Act to such municipality according to its tenor.

The Lieutenant-Governor⁴ may, at any time, cancel or modify an order made under this section.

3. The Commissioners shall, within fifteen days of such publication, cause a copy of the order to be deposited in the office of the Commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other places as the Commissioners may direct;

Publication of order.

and a public proclamation of such order shall be made throughout such municipality by beat of drum.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1883, Part IV, p. 55; for Report of Select Committee, see *ibid*, p. 58, and for Proceedings in Council, see *ibid*, 1882, Supplement, p. 1491; *ibid*, Supplement, pp. 100 and 512.

LOCAL EXTENT.—This Act extends only to the Darjeeling and Kurseong Municipalities (see the title and preamble), and comes into force therein only on publication of an order in the Calcutta Gazette (see s. 2).

² Printed post, page 759.

³ For orders made under section 2, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 4-10.)

Appointment
of register-
ing-officer.
Licensing
and registra-
tion of
coolies.

4. The Commissioners at a meeting shall, for the purposes of this Act, appoint a registering-officer.

5. Every *coolie* personally working for gain within the limits of such municipality shall take out a license and shall thereupon be registered by the registering-officer appointed under the last preceding section, who shall keep a register in which he shall enter the name and residence of every such *coolie*, and every person applying shall, at all reasonable times, be furnished with a certified copy of such particulars on payment of a fee of eight annas:

Provided always that the provisions of this section shall not apply to any *coolie* who is hired beyond the limits of the municipality for a period of time not exceeding twenty-four hours, but who performs a portion of the work imposed by such hiring within such limits.

Period of
license.

6. The year of registration shall commence on the first day of January of each year, and every license granted on any date within that year shall, subject to the provisions of sections 12 and 20, remain in force to the thirty-first day of December next following and no longer.

Details of
license.

7. Every license granted by the registering-officer shall specify the number of the license, and the name and place of abode and age of the *coolie* to whom such license is granted, and shall further state whether such *coolie* is licensed to work as—

- (a) a monthly or other servant for a fixed period of time exceeding twenty-four hours; or
- (b) a *coolie* empowered to work by the job, or for any period of time not exceeding twenty-four hours.

Every license shall bear date on the day on which the same shall be granted.

Licensed
coolie to wear
badge.

8. The registering-officer shall, at the time of granting the license to any *coolie* empowered to work by the job, or for any period of time not exceeding twenty-four hours, deliver to him a metal badge, upon which shall be marked or engraved a number corresponding with the number of such license.

Every *coolie* to whom such badge is delivered shall at all times, while waiting for hire or during the performance of his duties as such *coolie*, or while attending before any Magistrate, carry such badge exposed to view.

Penalty for
omitting to
wear badge.

9. Whenever any *coolie* empowered to work by the job, or for any period not exceeding twenty-four hours, shall omit to wear such badge exposed to view as aforesaid, he shall be liable to a penalty not exceeding five rupees.

Rates of hire
to be fixed
and published.

10. The Commissioners at a meeting, of which at least seven days' notice shall have been given by beat of drum, may make and publish, in such manner as they think fit, an order

¹ For orders made under s. 10, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1883.]

(Secs. 11-13.)

specifying the rates of hire in respect of all *coolies* empowered to work by the job, or for any period not exceeding twenty-four hours.

Such rates shall include rates calculated according to distance as well as rates calculated according to time, and such rates may from time to time be varied :

Provided that the list of rates calculated according to distance shall include rates in respect of such places situate beyond the limits of the municipality as may from time to time be determined upon by the Commissioners :

Provided further that no such order shall take effect until it has been confirmed by the Lieutenant-Governor¹ and published in the Calcutta Gazette.

A table of the rates of hire, legibly written or printed in English, Lepcha, Bhutia, Nagri, Urdu and Bengali, shall be affixed in some conspicuous place within the limits of the municipality ; and a copy of the same or such portion thereof as may be deemed sufficient, shall be given to every *coolie* at the time of registration.

11. Every such *coolie* shall be entitled to receive payment for his hiring in accordance with the rates specified in the order mentioned in the last preceding section :

Provided that nothing in this Act contained shall prevent any such *coolie* from being bound by any contract into which he may enter to receive payment at a rate lower than that fixed by such order.

12. Any *coolie* engaged as a monthly servant, or for some other fixed period of time exceeding twenty-four hours, who shall be proved to the satisfaction of the Chairman of the Commissioners,—

to have deserted from such employment without reasonable cause during the period of his engagement ;

or to have been guilty of gross misconduct during such period of time ;

or to have wrongfully prevented or endeavoured to prevent any other *coolie* from accepting employment,

shall be liable to have his license withdrawn or suspended for such period as the Chairman may direct.

13. Every *coolie* empowered to work by the job, or for any period not exceeding twenty-four hours, who shall, without reasonable excuse,

refuse to accept hire at the rate fixed for such hiring ;

or desert from his hiring before being discharged therefrom ;

or demand more than the proper rate fixed for such hiring ;

or be drunk or make use of insulting or abusive language during the period of, or while waiting for, such hiring ;

or wrongfully prevent, or endeavour to prevent, any other *coolie* from being hired ;

Coolie entitled to payment according to rates fixed, subject to special agreements for lower rates.

Registration of *coolies* when engaged as monthly servants.

Penalty for certain offences committed by registered *coolies*.

¹ Now the Governor in Council of Fort William—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, item 1, in Vol. I of this Code.

(Secs. 14-17.)

or fail to produce his table of rates when required to do so, shall be liable to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

Penalty for being unlicensed or lending license to another.

14. Any *coolie* who shall work as such without being duly registered and licensed, and any *coolie* who, having a license in force, shall transfer or lend the same, or allow the same to be used by any other person, shall be liable, upon conviction in respect of any one of such offences, to a penalty, not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

Coolie entitled to have new badge on loss or obliteration of former one.

15. Whenever the writing on any badge shall become obliterated or defaced, so that the same shall not be distinctly legible, and also whenever any badge shall be proved, to the satisfaction of the registering-officer, to have been lost or mislaid, the *coolie* to whom the license relating to any such badge shall have been granted shall deliver such badge (if he shall have the same in his possession), and shall produce such license to the registering-officer; and such *coolie* shall then be entitled to have a new badge delivered to him upon payment of such sum of money, not exceeding one rupee, as the registering-officer shall from time to time appoint.

Penalty for neglecting to deliver up badge, lending badge, etc.

16. Upon the expiration or other determination of any license granted to a *coolie* under this Act, such *coolie* shall deliver such license, and in the case of a *coolie* empowered to work by the job, or for any period of time not exceeding twenty-four hours, the badge relating thereto, to the said registering-officer;

and every such *coolie* who, after such expiration or determination as aforesaid, shall wilfully neglect for one week to deliver the same to the said officer, and also every *coolie* who shall use, or wear, or detain any badge which shall have ceased to be in force, or other than such as shall have been delivered to him under the provisions of this Act, and every *coolie* to whom any badge shall have been delivered as aforesaid, who shall lend such badge to any other person, and every person who shall wear or use the badge of any other *coolie*;

shall for every such offence be liable to a penalty of five rupees, or in default of payment to imprisonment not exceeding one week.

It shall be lawful for the registering-officer, or for any person employed by him for that purpose, to prosecute any *coolie* so neglecting to deliver up his license or badge at any period, within twelve calendar months, after the expiration of the license.

Penalty for using or having a counterfeit badge.

17. Every *coolie* or other person who shall, for the purpose of deception, use or wear or have any badge resembling any badge granted under the authority of this Act shall for every such offence be liable to a penalty not exceeding ten rupees, or in default of payment to imprisonment not exceeding one month.

of 1883.]

(Secs. 18-21.)

And it shall be lawful for any police-officer, or any person employed for that purpose by the registering-officer, to seize and take away any such badge, or any badge used for the purpose of deception as aforesaid, wheresoever the same may be found, and to deliver the same to the registering-officer.

18. Every *coolie* empowered to work by the job, or for any period of time not exceeding twenty-four hours, who shall be in possession of any lost or unclaimed property, shall within twenty-four hours carry such property, if not sooner claimed by the owner thereof, to the nearest police-station, and shall there deposit and leave the same with the sub-inspector or other officer on duty; and any such *coolie* making default herein shall be liable to a penalty not exceeding five rupees, or, in default of payment, to imprisonment not exceeding one week.

Penalty for not depositing lost or unclaimed property,

19. Whenever any *coolie* shall be summoned to appear before any Magistrate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do; and any *coolie* who shall on such requisition fail, without reasonable cause, to produce such license, shall for every such offence be liable to a fine not exceeding five rupees.

Conviction to be endorsed on *coolie's* license. Penalty for failing to produce license.

It shall be lawful for any Magistrate, on conviction of any *coolie* of any offence under this Act, to endorse on such license the nature of the offence, the date of the conviction and the penalty inflicted.

20. It shall be lawful for any Magistrate before whom any *coolie* shall be convicted of any offence, whether under this Act or under any other law in force, to revoke the license of such *coolie*, or to suspend the same for such time as the Magistrate shall think proper, and for that purpose to require the *coolie*, or any other person in whose possession such license and the badge (if any) thereto belonging shall then be, to deliver up the same;

Revocation or suspension of *coolie's* license on his conviction of any offence.

and every *coolie* or other person who, being so required, shall refuse or neglect to deliver up such license and such badge, or either of them, shall be liable to a penalty not exceeding ten rupees, so often as he shall be so required, and refuse or neglect as aforesaid;

and the Magistrate shall immediately send every license and every badge delivered up to him under this section to the registering-officer, who shall cancel such license if it has been revoked by the Magistrate, or, if it has been suspended, shall, at the end of the time for which it shall have been suspended, re-deliver such license with the badge (if it shall have come into the possession of the registering-officer) to the *coolie* to whom it was granted.

21. If any person who shall have hired any *coolie* shall refuse to pay such *coolie*, or any authorized agent on his behalf, the proper sum payable for such hiring, it shall be lawful for any Magistrate to order payment of such sum and also such

Penalty for refusing to pay legal fare.

688 THE DARJEELING AND KURSEONG MUNICIPAL (PORTERS)
ACT, 1883.

[Ben. Act 5 of 1883.]

(Secs. 22, 23.)

compensation as shall seem reasonable: and, in default of payment, such sum and compensation may be recovered in the same way as fines are recoverable under any Act¹ for the time being in force for the regulation of municipalities.

Jurisdiction.

22. Offences punishable under this Act shall be triable by any Magistrate having jurisdiction in the place where the offence is committed, but such Magistrate shall be subject to the provisions of the Code of Criminal Procedure² as to the amount of fine or imprisonment he may inflict: 10 of 1882.

Provided that the provisions of this section shall not apply to section 12 of this Act.

Disposal of
fines.

23. All penalties and fines to be levied under this Act shall be placed to the credit of the municipal fund.³

¹ See the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), s. 355, *post*, p. 856, and the Code of Criminal Procedure, 1898 (5 of 1898), ss. 886 *et seq.*, in General Acts, 1898-1908, Ed. 1909, p. 160.

² Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to the latter Act—*see* s. 8 (7) of that Act, in General Acts, 1898-1908, Ed. 1909, p. 40.

³ As to this fund, *see* the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), s. 87, *post*, p. 738.

BENGAL ACT 1 OF 1884

[THE PURI LODGING-HOUSE (EXTENSION) ACT, 1884].¹

(12th March, 1884.)

An Act further to amend Bengal Act 4 of 1871.²Ben. Act 4 of
1871

Whereas it is expedient further to amend the Puri Lodging-house Act, 1871 (4 of 1871), as amended and extended by Bengal Act 2 of 1879³; It is enacted as follows:—

1. (*Commencement of Act*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. In section 3 of Bengal Act 2 of 1879 the following clause shall be inserted after the second paragraph thereof:—
“in section 7, after the word ‘each’ the words ‘day or’ shall be inserted.”

Further
modification
of Ben. Act
4 of 1871.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1884, Pt. IV, page 46; and for Proceedings in Council, see *ibid.* 1884, Supplement, pages 57, 91 and 171.

LOCAL EXTENT.—As to the local extent of this Act, see footnote ¹ on p. 199, *ante*. The Act has been repealed in Western Bengal by the Puri Lodging-house (Amendment) Act, 1908 (Ben. Act 8 of 1908), s. 16, in Vol. III of this Code.

The application of the Act is barred in the Chittagong Hill-Tracts by the Chittagong Hill-Tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

² Printed *ante*, page 199.

³ Printed *ante*, page 383.

BENGAL ACT 2 OF 1884

[THE CALCUTTA TRAMWAYS (AMENDMENT) ACT, 1884].¹

(30th April, 1884.)

An Act to amend the Calcutta Tramways Act, 1880.

Whereas it is expedient to facilitate the construction and regulate the working of tramways within such portions of Calcutta as are not² [subject to the authority of the Corporation of Calcutta], and to make due provision for their general management, supervision and control; and whereas it is necessary to amend the Calcutta Tramways Act, 1880,³ for the purposes aforesaid; It is hereby enacted as follows:—

1. This Act shall be read with, and taken as part of, the Calcutta Tramways Act, 1880.⁴

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. (Definition of "Calcutta"). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

3. All tramways constructed⁵ [in those portions of Calcutta, as defined in the Calcutta Municipal Act, 1899,⁶ which are not subject to the authority of the Corporation of Calcutta] shall be subject to the general management, regulation and control of the Local Government; and the Local Government shall in this behalf exercise all the rights, powers, functions and authorities which would, under the provisions of the Calcutta Tramways Act, 1880,⁷ have been exercised by the Corporation if such tramways had been constructed wholly⁸ [within the area subject to their authority].

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1884, Pt. IV, page 62; and for Proceedings in Council, see *ibid*, Supplement, pp. 896, 464, 497 and 514.

LOCAL EXTENT.—Since this Act is (see s. 1) to be read with and taken as part of the Calcutta Tramways Act, 1880 (Ben. Act 1 of 1880), it has the same local extent as that Act, as to which see footnote on p. 439, ante.

² These words in square brackets, in the preamble, were substituted for the words and figures "situate within the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

³ Printed ante, p. 439.

⁴ These words and figures in square brackets in s. 3 were substituted for the words and figures "in Calcutta, but situate beyond the local limits of the town as defined in the Calcutta Municipal Consolidation Act, 1876" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

⁵ Printed in Vol. III of this Code.

⁶ These words "within the area subject to their authority" were substituted for the words and figures "within the local limits of the town, as defined by the Calcutta Municipal Consolidation Act, 1876," by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

Ben. Act 1 of
1880.

Ben. Act 3 of
1899.

Ben. Act 1 of
1880.

Preamble.

Construction
of Act.

Certain
tramways to
be subject to
Local Govern-
ment.

692 THE CALCUTTA TRAMWAYS (AMENDMENT) ACT, 1884.

[Ben. Act 2 of 1884.]

(Secs. 4, 5.)

Corporation
not to have
control in
respect of
tramway
outside limits
of the town.

Retrospective
effect of Act
as to tram-
ways already
constructed.

4. Nothing in this Act shall be construed so as to give the Corporation any control, power or authority in respect of any tramway or part of a tramway constructed ¹[outside the area subject to their authority].

5. The provisions of this Act and of the Calcutta Tramways Act, 1880,² shall apply to any tramway that may have been constructed before this Act comes into force, notwithstanding any omission or irregularity in publishing any notice required to be published under section 4 of the said Calcutta Tramways Act, 1880.³ Ben. Act 1 of 1880.

¹ These words in square brackets in s. 4 were substituted for the words and figures "outside the limits of the town, as defined by the Calcutta Municipal Consolidation Act, 1876," by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

² Printed *ante*, page 489.

BENGAL ACT 3 OF 1884
(THE BENGAL MUNICIPAL ACT, 1884).

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220. Operation of Parts VI, VII, VIII, IX and X.
Saving clause.
221. Local Government may order the provisions of the said Parts to be in force.
222. Publication of order.
223. Local Government may cancel or modify order.

OF A SURVEY.

- 223A. Survey of a municipality.

OF PRIVIES, DRAINS, AND EXCAVATIONS.

224. { *(All areas except Darjeeling)* Commissioners may require owner or occupier to repair *drain*, etc.
 (Darjeeling) Commissioners may require owner or occupier to repair *privy* or *cesspool*, etc.
- 224A. *(Darjeeling)* Power to define limits of *ghoras*, etc.
- 224B. *(Darjeeling)* Control over construction or alteration of private drains.
- 224C. *(Darjeeling)* Re-construction, repair, etc., of private drains.
225. Privies must be properly enclosed.
226. Unauthorized drains leading into public sewers may be demolished.
227. { *(All areas except Darjeeling)* Commissioners may require owner to drain land.
 (Darjeeling) Power to require provision of private drain.
228. { *(All areas except Darjeeling)* Group or block of houses, etc., may be drained by a combined operation.
 (Darjeeling) Private drainage in combination.
229. { *(All areas except Darjeeling)* Commissioners may alter any *drain*, etc., made contrary to their orders.
 (Darjeeling) Commissioners may alter any *privy*, etc., made contrary to their orders.
- 229A. *(Darjeeling)* Rules as to construction, etc., of private drains.
230. No latrine, etc., to be constructed within fifty feet of tank or watercourse.
231. Construction of *privy*.
232. *(All areas except Darjeeling)* Power to prohibit excavations.

OF OBSTRUCTIONS AND ENCROACHMENTS ON ROADS.

233. Removal of existing projections from houses.
234. Leave to deposit materials on, or to excavate or close, a road.
235. Hoards to be set up during repairs.

OF BUILDING REGULATIONS (*All areas except Darjeeling*).

236. Roofs and external walls not to be made of inflammable materials.
237. Notice of erecting a house, not being a hut.
238. Commissioners may order a house not being a hut erected without notice, to be altered or demolished.
239. Sanction available for one year only.
240. Definition of expression "erect or re-erect any house, not being a hut."
241. Power of the Commissioners to make rules as to mode of construction houses not being huts.
242. Commissioners may prohibit letting of unstable or ill-drained house.
- 242A. Appeals from orders of Commissioners.
243. Erection of new huts to be under the control of the Commissioners.
244. Power to direct removal of huts built without notice.

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BUILDING REGULATIONS (*Darjeeling*).

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236. Prohibition of inflammable materials for roofs or external
 237. Use of building sites, and erection, re-erection and material alteration of buildings.

MASONRY BUILDINGS AND FRAMED BUILDINGS (*Darjeeling*).

238. Application for approval of site for erection, re-erection or material alteration of a masonry or framed building.
 239. Approval of site when to be given or refused.
 240. Application for permission to erect, re-erect or materially alter a masonry or framed building.
 241. Permission to erect, re-erect or materially alter a masonry or framed building not to be given unless and until site approved.
 242. Work not to be commenced unless and until permission granted.
 243. Permission to execute work when to be granted or refused.
 244. Record of reasons when approval or permission refused.
 244A. Reference to Appellate Engineer if grant or refusal of approval or permission is delayed.
 244B. Grounds on which approval of site may be refused.
 244C. Grounds on which permission to execute work may be refused.
 244D. Lapse of permission if not acted upon within six months.
 244E. Notice before commencing building work, and inspection of site.
 244F. Notice after completion of building work.
 244G. Inspection of building.
 244H. Powers of inspecting building.

HUTS (*Darjeeling*).

- 244J. Application for permission to erect, re-erect or materially alter a hut.
 244K. Work not to be commenced unless and until permission given.
 244L. Permission to execute work when to be given or refused.
 244M. Record of reasons when permission refused.
 244N. Reference to Appellate Engineer if grant or refusal of permission is delayed.
 244O. Grounds on which permission to erect, re-erect or materially alter a hut may be refused.
 244P. Lapse of permission if not acted upon within six months.
 244Q. Notice before commencing building work and inspections.

EXEMPTIONS. (*Darjeeling*).

- 244R. Exemptions.

DEMOLITION, ALTERATION AND STOPPING OF WORK (*Darjeeling*).

- 244S. Demolition or alteration of work unlawfully commenced, carried on or completed.
 244T. Power to stop progress of work unlawfully commenced or carried on.
 244U. Demolition and fine cumulative.

CONTROL OVER OCCUPATION OF BUILDINGS (*Darjeeling*).

- 244V. Power to prohibit occupation of unsafe or insanitary building.
 244W. Power to remove persons occupying unsafe building.
 244X. Prohibition of use of unfit building for human habitation.
 244Y. Abatement of over-crowding in dwelling-house or dwelling-place.

ROOF-GUTTERS AND DOWN PIPES OR PLATFORMS (*Darjeeling*).

Provision, etc., of roof-gutters and down-pipes or masonry platforms.

SECTION.

OF SANITARY MEASURES WITH REGARD TO BLOCKS OF HUTS.

- 245. Power of Commissioners as to inspection of hut.
- 246. On receipt of report, Commissioners may cause notice to be served.
- 247. Expenses may be recovered by instalments or remitted in case of poverty.
- 248. Sale of huts.

RETTING, TURFING AND SLOPING (*Darjeeling*).

- 248A. Power to require retting, turfing or sloping.
- 248B. Execution of work where owners of adjacent property would be benefited.
- 248C. Power to execute works in combination.
- 248D. Power to execute works where public road, drain, retting or retaining-wall is affected.
- 248E. Rules as to retting, turfing and sloping.

OF THE REGULATION OF THE SALE OF FOOD, DRINK AND DRUGS.

- 249. Markets, slaughter-houses, etc., to be properly drained.
- 250. Sale of unwholesome food or drink.
- 251. Prohibition of the sale of articles of food not of the proper nature, substance or quality.
- 251A. No proceedings to be had without leave of the Commissioners.
- 251B. Power of Commissioners to enter and inspect markets, shops, etc., and to seize unwholesome articles exposed for sale.
- 251C. Power to destroy unwholesome articles.
- 251D. Person refusing to sell any article to Commissioners liable to penalty.
- 252. Registry of shops for sale of European drugs.
- Certificated dispensers.
- 253. Inspection of drugs.
- Compensation if drugs be not adulterated.

OF BURIAL AND BURNING GROUNDS.

- 254. Registration of existing burial and burning grounds.
- 255. No new or disused burial or burning place henceforth to be used without leave of Government or of Commissioners.
- 256. Commissioners may order certain burial or burning grounds to be closed.
- 256A. Private burial-places may be excepted.
- 256B. Appeals from orders under sections 256 and 256A.
- 257. Prohibition to bury or burn in unregistered ground.
- 258. Commissioners may cause corpses to be burnt or buried according to the religious tenets of the deceased.
- 259. Commissioners may provide places to be used as burial or burning grounds.
- 260. Commissioners may provide for burial of paupers free of charge.
- 260A. Power to license fuel shops at burning-grounds.

OF CERTAIN OFFENSIVE AND DANGEROUS TRADES OR OCCUPATIONS.

- 261. Certain offensive and dangerous trades not to be established within limits to be fixed by the Commissioners without license.
- 262. Commissioners may, in certain cases, order the use of slaughter-houses and the carrying on of dangerous and offensive trades to be discontinued.
- 262A. Commissioners may prohibit private kilns.
- 263. Milkman, etc., not to keep animals or cattle without license.
- 264. Commissioners may provide public stables.
- 265. Conditions for keeping pig-sty.

PENALTIES.

- 266. Failing to shut out privy from view.
- 267. (*All areas except Darjeeling*) Erecting huts without notice.

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SECTION.

268. Disobeying requisition under section 249.
 269. Digging up road for passage of water, etc.
 270. Throwing rubbish into sewers.
 Allowing water of any sewer, etc., to run on any road.
 Constructing latrine, etc., in contravention of sections 230 and 231.
 (All areas except Darjeeling) Making excavations.
 (All areas except Darjeeling) Making a roof or wall of grass, etc.
 (All areas except Darjeeling) Disobeying requisition under section 224, 225,
 271. { 227, 230, 231, or 233.
 (Darjeeling) Disobeying requisition under section 224, 225, 230 or 231.
 272. Altering, etc., drains leading to public sewers.
 (All areas except Darjeeling) Making drains contrary to the orders of the
 Commissioners.
 (Darjeeling) Making *priny* or *cess-pool* contrary to the orders of the Com-
 missioners.
 272A. *(Darjeeling)* Fine for certain offences.
 272B. *(Darjeeling)* Continuing fine for certain offences.
 272C. *(Darjeeling)* Fine for unlawfully commencing, carrying on or completing
 work.
 272D. *(Darjeeling)* Fine for disobedience of direction for demolition or a teration
 where work unlawfully commenced, carried on or completed.
 272E. *(Darjeeling)* Fine for using building for carrying on offensive trade without
 previous declaration
 273. *(All areas except Darjeeling)* Offence under section 235, 238, 241 or 242.
 273. *(Darjeeling)* Offence under section 235.
 Offence under section 261, 262A or 263.
 Offence under section 261 or 263.
 Offence under section 264.
 Offence under section 265.
 274. Burying or burning corpse in unregistered grounds.
 275. Offence under section 252.
 276. Uncertificated persons dispensing drugs.
 277. Disobeying notice under section 262.
 278. Suspension or revocation of license, etc.

PART VII.

OF A WATER-SUPPLY.

279. Imposition of water-rate.
 280. Valuation, assessment and collection of water-rate.
 281. Occupier paying water-rate may deduct one-fourth from rent due to owner.
 282. When house is unoccupied, owner to pay one-fourth of water-rate.
 283. Refund of water-rate when house ceases to be occupied
 284. Rate payable on house being re-occupied.
 285. Person sub-letting to several different tenants to be deemed occupier.
 286. Owner to pay water-rate in certain other cases.
 287. The Commissioners to provide water-supply.
 288. What are domestic purposes.
 289. Pressure at which water must be kept.
 290. Communication-pipes.
 291. Communication pipes, etc., must be made to satisfaction of officers of the
 Commissioners.
 292. Power to enter premises.
 293. When pipes are out of repair, Commissioners may turn off water.
 294. Supply for business.
 295. Householder entitled to certain supply of water for domestic use.
 296. Commissioners may provide filtered or unfiltered water for latrines.
 297. Water may be cut off on neglect to pay the rate.

SECTION.

- 298. Occupier in whose house water is wasted liable to penalty.
- 299. Person causing waste of water liable to penalty.
- 300. Commissioners at their discretion may allow person outside the town to take water.
- 301. Penalty.
- 301. Before connection an officer of the Commissioners to cause all works and pipes to be inspected.
- 302. Connection with service pipes to be executed only by an officer of the Commissioners.
- 303. Obstructing or diverting water.
- 304. Estimate and specification of works to be sent.
- 305. Owner to bear the cost of keeping works in repair.
- 306. Tanks, etc., vested in the Commissioners.
- 307. Application of rates and moneys received from the supply of water.

PART VIII.

OF LIGHTING WITH GAS.

- 308. Municipal Commissioners may submit to the Local Government a plan for lighting.
- 309. Lighting-rate not exceeding three *per centum* may, after sanction of plan, be imposed on holdings.
- Proviso as to portions already lighted.
- 310. Rate payable by occupiers quarterly in advance.
- 311. Valuation, assessment and collection of lighting rate.
- 312. Power to assess owners in certain cases.
- 313. Owner to recover from the occupier rates paid by owner.
- 314. Owner may recover rate so paid as rent.
- 315. Occupier liable to the rate for time of occupation only.
- Excess paid in advance to be refunded.
- No rate to be charged during vacancy.
- Notice of cessation of occupancy to be given within seven days.
- 316. Unknown owner or occupier how to be designated.
- 317. Situation of gas-pipe or other gas-work to be altered at the expense of the Commissioners.
- 318. If owner, etc., neglect to make alterations, the Commissioners may cause the same to be made.
- 318A. Application of rates and moneys received for lighting.
- 319. Provisions applicable to other systems of lighting.

PART IX.

OF THE CONSTRUCTION AND CLEANSING OF LATRINES.

- 320. Notice to be issued by the Commissioners.
- 321. Commissioners may levy fees.
- 322. Recovery of fees.
- 323. In certain cases fee may be levied from owner, who may recover from occupier.
- 324. Owner may recover fees from occupier as rent.
- 325. Commissioners may compound with occupier or owner of certain premises for fee.
- 326. Commissioners may levy a rate per head.
- 327, 328. (*Repealed*).

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SECTION.

- 329. Exemption from prosecution under section 217.
- 330. Powers of servants of Commissioners.
- 331. Commissioners may require nightmen to take out licenses.
- 332. Commissioners may require latrine to be constructed, and in default may construct themselves.
- 333. Commissioners may require list of persons in a holding.
- 334. Penalty.
- 334A. Exemption of jails, etc.

PART X.

REGULATION OF MARKETS.

- 335. Power to construct markets.
- 336. Definition of "Municipal market" and "market."
- 337. Commissioners may prohibit use of unlicensed markets.
- 338. Power to grant licenses for markets.
- 339. Duration of licenses and terms on which granted.
- 340. Chairman bound to certify fit places.
Existing markets.
- 341. Licenses to be registered.
- 342. Transfers to be registered.
- 343. Unregistered markets to be deemed unlicensed.
- 344. Penalty for using unlicensed market.
- 345. Power to close unlicensed places.

PART XI.

OF THE REGISTRATION OF BIRTHS AND DEATHS.

- 346. Registration of births and deaths.
- 347. On requisition of Government, Commissioners to appoint sub-registrars at burning-ghats and burial-grounds.
- 348. Information required by Ben. Act 4 of 1873 to be given to such sub-registrar.
- 349. Information of deaths in hospitals.

PART XIA.

EXTINCTION AND PREVENTION OF FIRE.

- 349A. Establishment and maintenance of Fire-brigade.
- 349B. Power of Fire-brigade and other persons for suppression of fires.

PART XIB.

SANITARY OFFICERS.

- 349C. Power to declare this Part to be in force in any Municipality.
- 349D. Appointment of Sanitary Officers.
- 349E. Salary and allowances of Sanitary Officers.
- 349F. Power to make rules.
- 349G. Unwholesome water.
- 349H. Application of Act to Sanitary Officers.

PART XII.

MISCELLANEOUS.

SECTION.

350. Power to make by-laws.
 350A. { *(All areas except Darjeeling)* Additional power to make by-laws in hill municipalities.
 (Darjeeling) Additional power to make by-laws.
 350B. *(Darjeeling)* Fines for breach of by-laws made under section 350A.
 351. Confirmation of by-laws.
 Local Government may cancel its confirmation of any by-law.
 351A. Power to make rules as to business and affairs.
 351B. *(Darjeeling)* Power to make rules for the amendment of Schedules A, B, C and D.
 351C. *(Darjeeling)* Power of entry to inspect, survey or execute work.
 351D. *(Darjeeling)* Appeal to specially appointed Engineer.
 351E. *(Darjeeling)* Appeal to Commissioner of the Division.
 351F. *(Darjeeling)* Limitation of time for appeal.
 351G. *(Darjeeling)* Assessors in appeals to Commissioner of the Division.
 351H. *(Darjeeling)* Record of decision on appeal or reference.
 352. Commissioners may direct prosecution for public nuisance, etc.
 353. No prosecution for an offence under this Act to be instituted without consent of Commissioners.
 354. Publication of by-laws, etc.
 355. Levy of fines.
 356. How notice, etc. may be served.
 357. Service of notice on owner or occupier of land.
 358. Tax not invalid for want of form.
 359. Holder of license to produce it when required.
 Penalty.
 360. Recovery of moneys due to the Commissioners.
 361. Power to sell unclaimed holdings for money due.
 362. Compensation for damages.
 363. No action to be brought against the Commissioners or their officers until after one month's notice of cause of action.
 364. *Chaukidari chakran* lands.
 365. Police-officer to report offences and arrest persons refusing to give name and residence.
 366. Penalty on officers, etc., taking unauthorized fees.
 367. Saving clause.

THE FIRST SCHEDULE.

Municipalities in which the Commissioners shall be appointed by the Local Government.

THE SECOND SCHEDULE.

Municipalities in which the Chairman shall be appointed by the Local Government.

THE THIRD SCHEDULE.

Form A.—Notice to be published of the preparation of the List of Assessment on Persons.

Form B.—Notice to be published of the preparation of the Valuation and Rating List of Holdings.

THE FOURTH SCHEDULE.

Form A.—Notice of Demand under section 120.

Form B.—Table of fees payable upon distrains under this Act.

Form C.—Distress Warrant.

Form D.—Form of Inventory and Notice.

Form E.—Register of distrains of property and sales held no account of arrears
 1. for the month of in .

THE FIFTH SCHEDULE.

Tax on carriages and animals.

THE SIXTH SCHEDULE

Enactments repealed.

SCHEDULE A (*Darjeeling*).

RULES AS TO PRIVATE ROADS AND BRIDGES.

Part I.—Roads.

RULES.

1. Application for permission to construct, re-construct or alter a private road.
2. Slope.
3. Retaining walls and revetments.
4. Drain.

Part II.—Bridges.

5. Application for permission to construct, re-construct or alter a private bridge.
6. Waterway.
7. Slope of flooring under bridge.
8. Pocket above bridge.
9. Substitution of gratings for culverts.

SCHEDULE B (*Darjeeling*).

RULES AS TO PRIVATE DRAINS.

1. Construction of drains for sullage water.
2. Construction of drains for surface water.
3. Drains to be open.
4. Sectional area.
5. Discharge.
6. Drain round masonry or framed building.

SCHEDULE C (*Darjeeling*).

RULES AS TO THE USE OF BUILDING-SITES AND THE ERECTION OF BUILDING WORK.

Part I.—Definition.

1. Definitions.

Part II.—Building-sites.

2. Certificate by Engineer as to site.

Part III.—Buildings generally.

3. Architecture.
- 3A. Shops.
- 3B. Building in crowded localities.
- 3C. Compensation to owner debarred from re-erecting a building.

RULES.

4. Buildings of more than three storeys.
5. Level of floor.
6. Building over drain.

Part IV.—Masonry buildings and framed buildings generally.

7. Foundation.
8. Footings for walls.
9. External and cross-walls of a one-storeyed building.
10. External and cross-walls of a two storeyed building.
11. External and cross-walls of a three-storeyed building.
12. Party-walls.
13. Damp-proof course.
14. Roofs.
15. Floors.
16. Beams and girders.
17. Iron-work.

Part V.—Dwelling-houses.

18. Free passage about dwelling-houses.
19. Out-houses.
20. Ventilation of rooms of dwelling-house.
21. Size and ventilation of inhabited rooms.

Part VI.—Applications for approval of sites for and for permission to erect, re-erect or materially alter masonry buildings or framed buildings.

22. Application for approval of site for erection, re-erection or material alteration of a masonry or framed building.
23. Application to be sent and particulars furnished by person intending to erect, re-erect or materially alter a masonry or framed building.
24. Signature of plans, elevations and sections.
25. Power to require further information.
26. Modification, signature and disposal of plans.

Part VII.—Huts.

27. Prohibition of projections or dropping of water over road or passage.

Part VIII.—Applications for permission to erect, re-erect or materially alter huts.

28. Application for permission to erect, re-erect or materially alter a hut.
29. Power to require further information.

SCHEDULE D (*Darjeeling*)

RULES AS TO REVETMENTS, RETAINING-WALLS, TOE-WALLS, TURFING AND SLOPING.

Part I.—Revetments, retaining-walls and toe-walls.

1. Foundation and bed-line.
2. Materials.
3. Laying of stones.
4. Bonding.
5. Solidity.
6. Weep-holes.
7. Sections.

Part II.—Sloping.

8. Angle.

BENGAL ACT 3 OF 1884

(THE BENGAL MUNICIPAL ACT, 1884).¹

(7th May, 1884.)

An Act to amend and consolidate the law relating to municipalities.

Whereas it is expedient to consolidate and amend the law relating to municipalities within the territories subject to the government of the Lieutenant-Governor of Bengal²; It is enacted as follows :—

PRELIMINARY.

1. This Act may be called the Bengal Municipal Act, 1884 :
[And it shall come into force on such date³ as the Lieutenant-Governor may direct, not being more than three months after the date⁴ on which it may be published in the Calcutta Gazette with the assent of the Governor General.]

Short title
and com-
mencement

¹ LEGISLATIVE PAPERS. —For Statement of Objects and Reasons, see Calcutta Gazette, 1883, Pt. IV, p. 38; for Preliminary Report of Select Committee, see *ibid.*, p. 248; for further Report of Select Committee, see *ibid.*, 1884, Pt. IV, p. 1; and for Proceedings in Council, see *ibid.*, 1882, Supplement, p. 1488; 1883, Supplement, pp. 44, 511 and 2079; 1884, Supplement, pp. 53, 92, 172, 266, 322, 368, 496, 465, 498, 516 and 559.

LOCAL EXTENT.—The preamble to Ben. Act 3 of 1884 refers to Bengal generally, but the Act does not apply to Calcutta, for which there is a special Act, namely the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), in Vol. III of this Code.

Ben. Act 3 of 1884 applies—

(1) to places which were constituted municipalities under the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876),—see s. 3, *post*, p. 710, and

(2) to towns and villages to which the Act is extended under s. 8, *post*, p. 715.

Power to withdraw municipalities from the operation of this Act, to exclude local areas from municipalities, and to include local areas in municipalities, is given by s. 9, *post*, p. 716.

Power to include adjacent areas in the Darjeeling Municipality is given by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 8, in Vol. III of this Code.

Restrictions on the application of Ben. Act 3 of 1884 to particular territory are imposed by ss. 5 and 10, *post*, pp. 711 and 717.

The Local Government is empowered by ss. 173 and 174 (*post*, p. 768) to direct that Part V (ss. 173 to 219) shall not be in force in particular municipalities.

Part VI (ss. 220 to 278) and Part X (ss. 335 to 346) apply (see s. 220, *post*, p. 786)—

(a) to municipalities in which Parts VII and IX, respectively, of the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876) were in force, and

(b) to municipalities to which they are specially extended by the Local Government.

Parts VII to IX (ss. 279 to 344A) apply only to municipalities to which they are extended by the Local Government—see s. 220, *post*, p. 786.

Part XI B (ss. 349C to 349H) apply only to municipalities to which it is extended by the Local Government—see s. 349C, *post*, p. 847.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

LOCAL REPEALS.—As to the repeal of Ben. Act 3 of 1884 (or portions thereof):—

(1) in the town of Howrah, on the extension thereto of the Calcutta Municipal Act, 1899 (or portions thereof), see s. 642 of the latter Act, in Vol. III of this Code;

(2) in areas in the neighbourhood of the Calcutta Municipality, on the extension thereto of the Calcutta Improvement Act, 1911 (or portions thereof), see s. 147(2) of the latter Act, in Vol. III of this Code.

² This includes the present Presidency of Fort William in Bengal and other territory.

³ This Act came into force on the 1st August, 1884—see Calcutta Gazette, 7th May, 1884, Pt. I, p. 587.

⁴ i.e., the 7th May, 1884.

⁵ The third clause of s. 1, as to notifications, etc., before the commencement of the Act, was repealed by the Repealing and Amending Act, 1906 (1 of 1906), and is omitted. That Act is now known as the Amending Act, 1906—vide Act 10 of 1914, Sch. II.

(Preliminary—Secs. 2, 3.)

Enactments
repealed.

2. * * * ¹ [The enactments specified in the sixth Schedule shall be repealed to the extent mentioned in the third column thereof.

But this repeal shall not revive any office, authority or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued, before the commencement of this Act.

Savings
clause.

And] all rules and by-laws prescribed, assessments, valuations, measurements, divisions and appointments made, powers conferred and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred and published hereunder.

² [In every enactment passed before this Act comes into force in which reference is made to Bengal Act 3 of 1864 (*the District Municipal Improvement Act*)³, or to any enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Act or to its corresponding part or section.]

"Notifica-
tions"
defined.

* * * * *

⁴ [The expression "notifications" as used in this section shall be deemed to include, and to have always included, all directions, declarations and orders given, or made, and published under any enactment referred to in this section :

Provided that nothing in this definition shall be deemed to affect any decision or order of a competent Court made before the date on which this Act shall come into force.]

In respect of all the matters aforesaid, the Commissioners under this Act shall be substituted for the Commissioners elected or appointed under the Bengal Municipal Act, 1876.⁵

Existing
municipal-
ties.

3. Every place which has been constituted a municipality under the provisions of the Bengal Municipal Act, 1876,⁶ and has not been withdrawn from the operation of the said Act before this Act comes into force, shall, from the time when this Act shall come into force, be deemed to be constituted a municipality under the provisions of this Act.

Ben. Act 5 of
1876.Ben. Act 5 of
1876.

¹ Formal words in s. 2 were repealed by the Repealing and Amending Act, 1908 (1 of 1908), and are omitted.

² This clause in square brackets in s. 2 was substituted for the original clause by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 2 (2), in Vol. III of this Code. The original clause ran thus—

"And all references to any such enactment shall (so far as may be practicable) be deemed to be made to this Act."

³ The District Municipal Improvement Act, 1864. It was repealed by Bengal Act 5 of 1876, and the latter Act has again been repealed by s. 2 of this Act.

⁴ The fifth clause of s. 2, as to pending proceedings, was repealed by the Repealing and Amending Act, 1908 (1 of 1908), and is omitted.

⁵ These clauses in square brackets were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 2 (1), in Vol. III of this Code.

⁶ The Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), was repealed by s. 2 of this Act—see Ben. VI, post, p. 668.

of 1884.]

*(Preliminary.—Secs. 4-6.)*BEN. Act 5 of
1876.

4. All property, movable and immovable, and all interest of any kind whatsoever, derived under any of the enactments specified in the sixth Schedule, or otherwise, and vested in, or held in trust for, the late Commissioners under the said Bengal Municipal Act, 1876,¹ shall become vested in the Commissioners, and their successors; and all rights of whatsoever description used, enjoyed or possessed by the late Commissioners under any such enactment shall become vested in the Commissioners for the purposes of this Act.

All property of late Commissioners vested in Commissioners under this Act.

5. Notwithstanding anything contained in section 3, this Act shall not take effect in any cantonment without the consent of the Governor General in Council previously obtained, nor shall the Local Government extend this Act, or any part thereof, to any cantonment without such consent.

Act not to be extended to cantonments without consent of Governor General.

6. In this Act, unless there be something repugnant in the subject or context,—

Definitions.

(1) "carriage" means any wheeled vehicle with springs used for the conveyance of human beings and ordinarily drawn by animals;

"Carriage."

(2) "cart" means any cart, hackery or wheeled vehicle with or without springs ordinarily drawn by animals, and not included in the definition of "carriage";

"Cart."

(3) "holding" means land held under one title or agreement and surrounded by one set of boundaries;

"Holding."

Provided that where two or more adjoining holdings form part and parcel of the site or premises of a dwelling house, manufactory, warehouse or place of trade or business, such holdings shall be deemed to be one holding for the purposes of this Act other than those mentioned in clause (a) of section 85;

Explanation.—Holdings separated by a road or other means of communication shall be deemed adjoining within the meaning of this proviso :

(4) "house" includes any hut, shop, warehouse or building;

"House."

(5) "immovable property" and "land" include (besides land) benefits arising out of land, houses, things attached to the earth, or permanently fastened to anything attached to the earth;

"Immovable property."

(6) "movable property" means property other than immovable property;

"Movable property."

(7) "Magistrate of the district" means the Chief Magistrate in a district;

"Magistrate of district."

(8) "the Magistrate" includes the Magistrate of the district, the Magistrate in charge of a division of the district in which division a municipality is constituted, and every Magistrate subordinate to the Magistrate of the district to whom the Magistrate of the district may have made over any duties under this Act;

"The Magistrate."

(9) "municipality" means any place in which this Act, or any part thereof, is in force;

"Municipality."

¹ The Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), was repealed by s. 2 of this Act—see Sch. VI, post, p. 869.

(Preliminary.—Sec. 6.)

"Offensive
matter."

(10) "offensive matter" means dirt, dung, putrid or putrefying substances, and filth of any kind not included in the term "sewage":

"Owner."

(11) "owner" includes—

- (a) every person who is entitled for the time being to receive any rent in respect of the land with regard to which the word is used, whether from the occupier or otherwise;
- (b) a manager on behalf of any such person;
- (c) an agent for any such person;
- (d) a trustee for any such person:

Provided that no such manager, agent or trustee shall be liable to do anything required by this Act to be done by the owner nor shall he be subject to any fine for omitting to do such thing unless he have sufficient funds in his hands as such manager, agent or trustee to do such thing:

"Part."

(12) "Part" means a Part of this Act:

"Road."

(13) "road" means any road, street, square, court, alley or passage, whether a thoroughfare or not, over which the public have a right of way:

"Rubbish."

(14) "rubbish" means broken brick, mortar, broken glass, kitchen or stable refuse, or refuse of any kind whatsoever not included in the term "offensive matter":

"Sanitary
Board."

¹[(14A) "Sanitary Board" means the persons for the time being appointed, either by name or by official designation, by the Local Government by notification² in the Calcutta Gazette to constitute a Sanitary Board for Bengal:]

"Schedule."

(15) "Schedule" means a schedule annexed to this Act:

"Section."

(16) "section" means a section of this Act:

"Sewage."

(17) "sewage" means night-soil and other contents of privies, drains and cess-pools:

"The Com-
missioners."

(18) "the Commissioners" means the persons for the time being appointed or elected to conduct the affairs of any municipality under this Act:

"Year."

(19) "year" means a year beginning on the first day of April, or on such other date as may hereafter be fixed for any municipality by the Local Government by notification in the Calcutta Gazette.

²(20) "bridge" includes a culvert;

³(21) "drain" includes a *jhora*, water-course, channel or natural drainage line;

⁴(22) "dwelling-house" means a masonry or framed building constructed, used or adapted

¹ Clause (14A) was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 3, in Vol. III of this Code.

² For a notification issued under cl. (14A) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI:

³ Clauses (20) to (35) were added to a. 6, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 4, in Vol. III of this Code.

(Preliminary.—Sec. 6.)

to be used wholly or principally for human habitation;

¹(23) "framed building" means a building the external walls of which are constructed of timber framing or iron framing, and the stability of which depends on such framing;

¹(24) "Government road" means a road maintained by the Government or at the public expense;

¹(25) "hut" means any building no material portion of which above the plinth-level is constructed of masonry or of squared timber framing or iron framing;

¹(26) "masonry building" means any building other than a framed building or a hut;

¹(27) the expression "materially alter," when used with reference to a building, includes—

- (a) the construction of a roof or an external or party wall,
- (b) any repairs to the building which involve the reconstruction of a masonry or framed wall or a masonry chimney after the same has been entirely or in great part demolished,
- (c) the closing-up of any door or window in an external wall,
- (d) any alteration of the internal arrangements of a building which effects an alteration of its drainage, ventilation or sanitary arrangements, or which affects its security,
- (e) the addition of any building, room, verandah, outhouse or other structure,
- (f) the roofing of any space between one or more walls and buildings,
- (g) the enclosing of any verandah,
- (h) the conversion into more than one place for human habitation of a building originally constructed as one such place, and
- (j) the conversion of two or more places for human habitation into a greater number of such places:

Explanation.—Clause (f) applies only as regards the structure which is formed by roofing a space, and not as regards adjoining buildings;

¹ See footnote 1 on page 712, ante.

THE BENGAL MUNICIPAL ACT, 1884.

[Beng. Act 8]

(Preliminary.—Sec. 6.)

¹(28) “plinth” means the part of a wall between the ground-level and the level of the lowest floor of a building;

¹(29) “private bridge” means any bridge which is not a public bridge as defined in this section;

¹(30) “private drain” means any drain which is not a public drain as defined in this section, and includes any surface, sullage or other drain on private property;

¹(31) “private road” means any road, path, street, alley, way or passage which is not a public road or a Government road, as defined in this section;

¹(32) “public bridge” means a bridge on or over which a public road or any public work is carried, and the property in which is for the time being vested in the Commissioners;

¹(33) “public drain” means any drain which is vested in the Commissioners;

¹(34) the expression “public road” means any road, path, street, alley, way or passage over which the public have a right of way, and the property in which is vested in the Commissioners; and, as used in section 189, section 207, section 216, section 217, clause (1), and section 235, and in rule 5 of Schedule B and rule 18 of Schedule C, includes also a Government road; and

¹(35) the expression “re-erect,” when used with reference to a building, includes—

- (a) the re-construction of a building after more than one-half its cubical extent has been taken down or burnt down or has fallen down,
- (b) the conversion of one or more huts or temporary structures into a masonry or framed building, and
- (c) the conversion into a place for human habitation of any building not originally constructed for human habitation:

Explanation.—Clause (a) applies, whether the re-construction takes place (after the commencement of the Darjeeling Municipal Act, 1900)² entirely at the same time or by instalments at different times, and whether more than half the cubical extent has (after the commencement of

Beng. Act 1
of 1900.

¹ See footnote * on page 719, ante.

² Beng. Act 1 of 1900 is printed in Vol. III of this Code.

of 1884.]

*(Preliminary.—Part I.—Of the Creation of Municipalities.—
Secs. 6A-8.)*

the Darjeeling Municipal Act, 1900)¹ been taken down or been burnt down or fallen down at the same time or at different times.

Ben. Act 1 of 1900.

³6A. The Commissioners may decide whether any particular building is a framed building, a masonry building or a hut, as defined in section 6; and their decision shall be final.

Power to define character of building.

PART I.

OF THE CREATION OF MUNICIPALITIES.

7. [In every place which, in accordance with the provisions of section 3, becomes a municipality under this Act, every person who has been appointed or elected to be a Commissioner for such place under the Bengal Municipal Act, 1878² and who is holding office as such Commissioner at the commencement of this Act, shall be deemed to be a Commissioner duly appointed for such municipality, until such time as the election or appointment of Commissioners in respect of such municipality shall take effect under the provisions of this Act.

n. Act 6 of 1878.

Existing Commissioners and existing rates and taxes temporarily continued.

And] in every such place in which a rate on the annual value of holdings, or a tax upon persons, or a tax upon carriages and animals, or a fee upon the registration of carts, or tolls on roads or on ferries, or a fee under Bengal Act 6 of 1878³ may have been levied by the Municipal Commissioners before the commencement of this Act, it shall be deemed that the said rate, tax, fee or tolls have been duly imposed under this Act, and such rate, tax, fee or tolls shall continue to be levied accordingly until the Commissioners at a meeting, with the sanction of the Local Government, shall otherwise direct.

8. Except as is hereinafter otherwise expressly provided, this Act may be extended by the Local Government by notification⁴ published in the Calcutta Gazette, and in the manner prescribed by section 354, to any town or village not being within the limits of the ordinary original jurisdiction of the High Court at Fort William in Bengal, from such date as may be specified in such notification; and, save as is hereinafter otherwise provided, this Act shall

Local Government may extend Act.

¹ Ben. Act 1 of 1900 is printed in Vol. III of this Code.

² Section 6A was inserted, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 5, in Vol. III of this Code.

³ Ben. Act 6 of 1878 was repealed by s. 2 of this Act—see Sch. VI, post, p. 869.

⁴ Ben. Act 6 of 1878 (Latrines) was repealed by s. 2 of this Act—see Sch. VI post, p. 869.

⁵ For lists of notifications issued under section 8 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.—Of the Creation of Municipalities.—Sec. 9.)

take effect in such town or village on the date so specified, and the said town or village, within the limits mentioned in such notification shall be deemed to be created a municipality for the purposes of this Act:

Provided that, at least six weeks before publishing any notification as aforesaid, the Local Government shall cause to be published in the town or village concerned a notice of its intention to declare the said town or village to be a municipality, unless good reason to the contrary be shown within one month.

Any objections which may be made to the proposed measure shall be duly considered by the Local Government before it causes to be issued the notification declaring the town or village to be a municipality under this Act.

Every notification declaring a town or village to be a municipality shall specify whether the name of such municipality shall, or shall not, be inserted in the first or second Schedule of this Act, and shall further specify, subject to the provisions of section 13, the number of the Commissioners of such municipality.

* Notification of intention to alter limits of municipality.

¹ 9. The Local Government may, on the recommendation of the Commissioners at a meeting, by notification published in the Calcutta Gazette, and in such other manner as it may determine, declare its intention—

- (a) to withdraw any municipality from the operation of this Act; or
- (b) to exclude from a municipality any local area comprised therein and defined in the notification; or
- (c) to include ² within a municipality any local area contiguous to the same and defined in the notification; or
- (d) to sub-divide any municipality into two or more municipalities; or
- (e) to alter the number of the Commissioners of a municipality.

And the Local Government may, on the recommendation of the Commissioners at a meeting of both or all the municipalities concerned, by notification similarly

¹ The sections 9, 9A and 9B were substituted for the original section 9 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 4, in Vol. III of this Code. The original section 9 ran thus:—

"9. The Local Government may, on the recommendation of the Commissioners at a meeting, by a like notification, at any time vary the limits of any municipality, or sub-divide any municipality into two or more municipalities, or withdraw any town, village or land from the operation of this Act or alter the number of the Commissioners of such municipality."

² For power to declare that any area within the Darjeeling District and adjacent to the Darjeeling Municipality shall be deemed to be included in that Municipality for the purposes of specified portions of the present Act, see the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 8, in Vol. III of this Code.

of 1884.]

(Part I.—Of the Creation of Municipalities—Sec. 9A-10.)

published, declare its intention to unite two or more municipalities so as to form one municipality :

Provided that no local area shall be included within a municipality unless the Local Government shall have been satisfied that three-fourths of the adult male population of such local area are chiefly employed in pursuits other than agriculture :

Provided also that whenever it shall appear, either from a general census or from special inquiries undertaken in this behalf, that any municipality does not comply with the conditions laid down in section 10, the Local Government may, of its own motion declare its intention to withdraw such municipality from the provisions of this Act or to deal with it in the manner stated in this section :

Provided also that where the local area to be excluded or included is a cantonment or part of a cantonment, no notification affecting it shall be published under this section without the previous consent of the Governor General in Council.

¹9A. (1) Any rate-payer of a municipality, inhabitant of a local area, or, when the union of two or more municipalities has been recommended, the Commissioners of any one or more of such municipalities, in respect of which a notification has been published under the last preceding section may, should he or they object to the alteration proposed, submit his or their objection in writing, through the District Magistrate to the Local Government within six weeks from the publication of the notification in the Calcutta Gazette; and the Local Government shall take such objection into consideration.

Objection to proposed alteration may be submitted to Local Government.

(2) When six weeks from the publication of the notification have expired and the Local Government has considered the objections (if any) which have been submitted under subsection (1) of this section, the Local Government may, by notification², give effect to the proposed alteration or not, as the case may be.

¹9B. Whenever two or more municipalities are united, or a municipality is sub-divided, under the two last preceding sections, the Municipal Funds or Fund, and all property vested in the Commissioners of the municipalities or municipality concerned, shall be consolidated, or apportioned in such manner as the Local Government may direct.³

Local Government may apportion and dispose of municipal property upon a sub-division or union of municipalities.

10. This Act shall not be extended to any town or village unless the Local Government shall have been satisfied that three-fourths of the adult male population of such town or

Conditions on which municipality may be created.

¹ See foot-note ¹ on page 716, ante.

² For lists of notifications issued under section 9A for Bengal as constituted on the 5th March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

³ For an order issued under section 9B, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

(Part I.—Of the Creation of 'Municipalities.—Part II.—Of the
Municipal Authorities.—Secs 11-14.)

village are chiefly employed in pursuits other than agricultural, and that such town or village contains a number of inhabitants, not being less than three thousand, and an average number of not less than one thousand inhabitants to the square mile of the area of such town or village.

11, 12. (*Local Government may unite places to a municipality.—Land between municipality and place united to form part of municipality.* Rep. by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 5.

PART II.

OF THE MUNICIPAL AUTHORITIES.

Of the Constitution of the Municipality.

Number of
Commissioners.

13. The number of Commissioners of a municipality constituted before the passing of this Act shall be such number as may be specified in a notification¹ of the Local Government, to be issued immediately after this Act comes into force, and to be published in the Calcutta Gazette or in any subsequent notification under section 9.

The number of Commissioners of each municipality created under the provisions of section 8 of this Act shall be such number as is specified in the notification of the creation of such municipality or in any subsequent notification under section 9:

Provided that the number of Commissioners of a municipality shall in no case be more than thirty or less than nine:

Provided, further, that no act of the Commissioners, or of their officers, shall be deemed to be invalid by reason only that the number of the Commissioners did not, at the time of the performance of such act, amount to the number specified in the notifications aforesaid.

Constitution
of body of
Commissioners.

14. Two-thirds of the number of the Commissioners of each municipality, fixed by such notification, shall be elected as hereinafter provided by male persons, resident within the limits of such municipality, who shall have attained the age of twenty-one years.

The remaining one-third of such Commissioners shall be appointed, '[either by name or by official designation], by the Local Government immediately after the result of the election hereinbefore mentioned shall have been notified to the Local

¹ For notifications issued under section 13, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

² The words "either by name or by official designation," in s. 14, were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 6, in Vol. III of this Code.

of 1884.]

(Part I.—Of the Municipal Authorities.—Sec. 15.)

Government, and such appointment shall be deemed to have been made on the date on which such election takes place:

Provided that the number of persons holding salaried offices under the Government, and appointed as Municipal Commissioners, shall not bear a larger proportion than one-fourth to the total number of Commissioners elected and appointed under the provisions of this Part:

Provided also that, in cases where the whole number of Commissioners is not evenly divisible by three or by four, the one-third or one-fourth shall be ascertained by taking the number next below the whole number, which is evenly divisible by three or by four, as the number to be divided.

15. For the purposes of the aforesaid election of Commissioners, the Local Government, with respect to each municipality, shall lay down such rules,¹ not inconsistent with the provisions of this Act, as it shall think fit in respect of the division, where necessary, of each municipality into wards, and the number of Commissioners to be elected for each of such wards, the qualifications required to entitle any person to vote for a candidate for election, and in respect of the mode of election,² [and the authority who shall decide disputes thereunder]. And the Local Government may at any time cancel any rule made by it under this section:

Rules to be laid down for election.

Provided that every male person who is at the time of such election, and has been for a period of not less than twelve months immediately preceding such election, resident within the limits of a municipality, and who—

- ¹ (i) has, during the year immediately preceding such election, paid in respect of any rates an aggregate amount of not less than three rupees, or
- ² (ii) has, during the year aforesaid, paid or been assessed to the tax imposed by Act 2 of 1886⁴ (*an Act for imposing a tax on income derived from sources other than agriculture*), or
- ³ (iii) being a graduate or licenciate of any University, or having passed the First Arts Examination of the Calcutta University, or the corresponding standard of any other University, or holding a license, granted by any Government Vernacular Medical School, to practise medicine, or holding a certificate authorizing him to practise as a pleader or as a *mukhtar* or as a revenue agent—occupies a holding, or part of a holding, in respect of which there has been paid, during the year aforesaid

¹ For lists of rules made under section 15 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

² The words "and the authority who shall decide disputes thereunder," in s. 15, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 7 (1), in Vol. III of this Code.

³ The clauses (i), (ii) and (iii) here printed were substituted for the former clauses by the Bengal Municipal (Amendment) Act, 1898 (Ben. Act 2 of 1898), s. 8 (1), in Vol. III of this Code.

⁴ The Indian Income-tax Act, 1886. It is printed in the General Acts, 1879-86, Ed. 1909, p. 642.

(Part II.—Of the Municipal Authorities.—Secs. 16, 17.)

in respect of any rates, an aggregate amount of not less than three rupees,

shall be entitled to vote at the election of Commissioners of such municipality.

No person who is not entitled to vote at the election of Commissioners of a municipality shall be deemed qualified for election to be a Commissioner of such municipality:

¹[Provided that nothing contained in this section nor in any rules made under the authority of this Act shall be deemed to affect the jurisdiction of the Civil Courts.

"Rates" defined.

The term "rates" in this section ²means—

- (a) the tax upon persons and the rate upon the annual value of holdings levied under section 85;
- (b) the tax on carriages and horses levied under Part IV;
- (c) the water-rate on the annual value of holdings levied under Part VII;
- (d) the lighting-rate on the annual value of holdings levied under Part VIII;
- (e) the fee for the cleansing of privies and cess-pools levied under Part IX.]

³[*Explanation*.—Rules made under this section may reduce, but not raise, any of the sums mentioned in the first proviso thereto, and may declare that any persons who are not referred to in that proviso shall be entitled to vote.]

First election of Commissioners.

16. [The first election of Commissioners under this Act may take place at such time, not being more than six months after this Act comes into force, as the Local Government shall direct.]

On failure of election, Commissioners to be appointed by Government.

If the persons entitled to elect Commissioners for any municipality fail [within the time appointed for the first election under this Act, or] for every subsequent election within the time prescribed by the rules mentioned in the last preceding section, to elect the whole number of Commissioners allotted for election to such municipality, the Local Government may appoint one or more Commissioners to complete the number so allotted as aforesaid.

Certain municipalities excluded from elective system.

17. Every municipality mentioned in the first Schedule of this Act shall be excluded from the operation of the three last preceding sections; and in any municipality so excluded the whole number of the Commissioners shall be appointed by the Local Government "either by name or by official designation"; subject, however, to the proviso contained in the third clause of section 14.

¹These clauses in square brackets were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 7 (2), in Vol. III of this Code.

²This word "means" was substituted for the words "shall be deemed to include" by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 3 (2), in Vol. III of this Code.

³This *Explanation* was added by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 3 (3), in Vol. III of this Code.

⁴These words "either by name or by official designation," in s. 17, were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 3, in Vol. III of this Code.

of 1884.]

(Part II.—Of the Municipal Authorities.—Secs. 18-22.)

It shall be lawful for the Local Government at any time to remove¹ the name of any municipality from the said Schedule.

18. (*Resignation of Commissioners*). *Rep. by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 9.*

19. The Local Government may, if it thinks fit, on the recommendation of the Commissioners at a meeting, remove any Commissioner appointed or elected under this Act, if such Commissioner shall have been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct.

Removal of
Commissioner
by Local Gov-
ernment.

²**20.** (1) The Commissioner of the Division may remove any Commissioner—

Removal of
Commissioner
by Commis-
sioner of the
Division.

- (a) if he refuses to act or becomes incapable of acting, or is declared insolvent, or is convicted of any non-bailable offence; or
- (b) if he has been declared by notification to be disqualified for employment in the public service; or
- (c) if he absents himself from six consecutive meetings of the Commissioners without having obtained permission from the Commissioners at a meeting; or
- (d) if, in the judgment of the Commissioner of the Division to be recorded in writing, he has become disqualified to continue in office under section 57:

Provided that any Commissioner so removed may appeal to the Local Government.

(2) All acts and proceedings of any Commissioner so removed shall, if done previously to such removal, be valid and effectual to all intents and purposes.

21. Every Commissioner shall vacate his office at the end of three years from the date of his appointment or election as such Commissioner.

Tenure of
office of
Commissioner

³**22.** No Commissioner who has been removed from his office by the Local Government under section 19, or by the Commissioner of the Division under clauses (a) and (b) of subsection (1) of section 20, may be elected or re-elected a Commissioner without the consent of the Local Government.

Certain Com-
missioners no
to be elected
or re-elected
without con-
sent of Local
Government.

¹ For a list of orders issued under paragraph 2 of section 17 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² This section was substituted for the original section 20 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 10, in Vol. III of this Code. The original section ran thus:—

“20. Any Commissioner who, without having obtained permission from the Commissioners at a meeting, shall have omitted to attend six consecutive meetings of the Commissioners, and any Commissioner who shall have been convicted of a non-bailable offence, or shall have been declared insolvent by a competent Court, shall cease to be a Commissioner.”

³ This section was substituted for the original section 22 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 11, in Vol. III of this Code. The original section ran thus:—

“22. Any person who has resigned the office of Commissioner under section 18, or who has ceased to be a Commissioner in consequence of his failure to attend meetings, or in consequence of his insolvency, as provided in section 20, may be at any time re-appointed or re-elected a Commissioner; but no person removed by the Local Government from his office under section 19, or who has ceased to be a Commissioner in consequence of being convicted of a non-bailable offence, may be elected or re-elected a Commissioner without the sanction of the Local Government.”

(Part II.—Of the Municipal Authorities.—Secs. 23-25.)

Appointment
of Chairman.

23. (1) The Local Government shall appoint, either by name or by official designation, the Chairman of every municipality mentioned in the second Schedule of this Act.

(2) The Commissioners of every municipality, the name of which is not included in the said Schedule, shall, at a meeting, elect one of their number to be Chairman, or may, whenever a vacancy occurs, at a meeting attended by not less than two-thirds of the Commissioners, request the Local Government to appoint a Chairman, and such Chairman shall be appointed by name.

(3) The Local Government may at any time remove a Chairman appointed by it.

(4) The Local Government may at any time remove² the name of any municipality from the said Schedule.

(5) Whenever the name of any municipality is removed from the said Schedule, the office of Chairman shall thereupon become vacant.

Status and
tenure of
office of
Chairman.

24. Notwithstanding anything in section 13 contained, every Chairman appointed under the last preceding section, if not already a Commissioner of the municipality of which he shall have been appointed Chairman, shall, from the date of his appointment, during the term of his office, enjoy all the rights and privileges of a Commissioner of the municipality to which such appointment relates, but shall not be reckoned in calculating the proportions of one-third and one-fourth under the provisions of section 14.

¹ [Except as is otherwise provided in this Act] every Chairman, whether appointed or elected, shall hold office for three years from the date of his appointment or election and shall be eligible for re-appointment or re-election.

A Chairman elected under the last preceding section may at any time be removed from his office by a resolution of the Commissioners in favour of which not less than two-thirds of the whole number of the Commissioners have given their votes at a meeting specially convened for the purpose.

Election of
Vice-Chair-
man.

25. The Commissioners at a meeting shall elect one of their own number to be Vice-Chairman. He shall hold office for three years from the date of his election, and shall be eligible for re-election on the expiration of his term of office.

¹ This section was substituted for the original section 23 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 12, in Vol. III of this Code. The original section ran thus:—

"23. The Local Government shall appoint the Chairman of every municipality mentioned in the second Schedule of this Act.

Every municipality, the name of which is not included in the said Schedule, shall, at a meeting, elect one of its Commissioners to be Chairman; or may, at a meeting attended by not less than two-thirds of the Commissioners, request the Local Government to appoint a Chairman.

The Local Government may at any time remove a Chairman appointed by it.

The Local Government may at any time remove the name of any municipality from the said Schedule."

² For a list of orders issued under section 23 (4) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ These words "Except as is otherwise provided in this Act," in s. 24, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 18, in Vol. III of this Code.

of 1884.]

(Part II.—Of the Municipal Authorities.—Secs. 25A-27.)

The Vice-Chairman may at any time be removed from his office by a resolution of the Commissioners in favour of which not less than two-thirds of the whole number of the Commissioners shall have given their votes at a meeting specially convened for the purpose.

¹**25A.** If a Chairman or a Commissioner is appointed by official designation, the person for the time being holding the office shall be a Chairman or a Commissioner, as the case may be. *Ex officio appointments.*

26. The term of three years mentioned in sections 21, 24 and 25 shall be held to include any period which may elapse between the expiration of the said three years and the date of the ²[first meeting of the body of Commissioners newly appointed and elected at which a quorum shall be present, and any Chairman elected under sections 23 or 27 shall be competent to discharge the duties of his office after his election and pending the orders of the Local Government approving of his election]. *Tenure of office under sections 21, 24 and 25.*

³**26A.** Notwithstanding anything contained in sections 24, 25 and 27A, the Chairman and Vice-Chairman of every municipality shall resign office at the first meeting of the Commissioners newly appointed and elected at which a quorum shall be present. *Resignation of Chairman and Vice-Chairman.*

The meeting shall thereupon proceed—

(a) to elect, or to request the Local Government to appoint a Chairman, and

(b) to elect a Vice-Chairman :

Provided that if the municipality is in the second Schedule of this Act, or if the meeting decides to request the Local Government to appoint a Chairman, the resignation of the Chairman shall not take effect until a new Chairman is appointed.

⁴**26B.** The Commissioners at a meeting may grant leave of absence to their Chairman or Vice-Chairman for any period not exceeding three months in any one year. *Leave may be granted to Chairman or Vice-Chairman.*

27. If any Commissioner, Chairman or Vice-Chairman shall be unable to complete his full term of office, ⁵[or shall avail himself of leave granted under section 26B.] the vacancy caused by his resignation, or removal, or death ⁶[or absence on leave] shall be filled by the appointment or election, as the case may be, of another person; and the person so appointed or elected shall fill such vacancy for the unexpired remainder of *Appointment or election of Commissioner, Chairman or Vice-Chairman for unexpired term of office or during term of leave of absence.*

¹ Section 25A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 14, in Vol. III of this Code.

² The words and figures in square brackets in s. 26 were substituted for the original words by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 15, in Vol. III of this Code.

³ Section 26A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 16, in Vol. III of this Code.

⁴ Section 26B was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 17, in Vol. III of this Code.

⁵ These words and figures in square brackets, in s. 27, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 18, in Vol. III of this Code.

⁶ The words "or absence on leave," in s. 27, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 18, in Vol. III of this Code.

(Part II.—Of the Municipal Authorities.—Secs. 27A-29A.)

the term for which such Commissioner, Chairman or Vice-Chairman would otherwise have continued in office ¹[or during his absence on leave, as the case may be].

Resignation
of Chairman,
Vice-Chair-
man or
Commissioner.

²27A. (1) A Chairman of a municipality may resign by notifying in writing his intention to do so to the Local Government, and on such resignation being accepted, shall be deemed to have vacated his office.

(2) A Vice-Chairman or a Commissioner of a municipality may resign by notifying in writing his intention to do so to the Chairman, who shall forthwith lay such notice before the Commissioners at a meeting, and on such resignation being accepted by such Commissioners, shall be deemed to have vacated his office.

Allowances of
Chairman and
Vice-Chair-
man.

28. The Chairman and Vice-Chairman of any municipality may, if the Commissioners think fit, receive such allowances out of the municipal fund as shall from time to time be fixed at a meeting by the Commissioners.

³[And in the case of a salaried Chairman or Vice-Chairman, the Commissioners may grant such leave allowances as they may from time to time determine at a meeting:]

Provided that the allowance so granted, together with the acting allowance, if any, of the officiating incumbent shall not exceed the salary fixed for the office].

Incorporation
of Commis-
sioners.

29. The Commissioners shall, in the name of their Chairman, by the description of "the Chairman of the Municipal Commissioners of _____," be a body corporate, and have perpetual succession, and a common seal, and in such name shall sue and be sued.

Such common seal shall have the name of the municipality engraved thereon in legible characters in the English language, and also in the vernacular of the district.

Delegation
of certain
powers and
functions of
Local Govern-
ment.

⁴29A. (1) The powers and functions of the Local Government under sections 30, 255, 259 and 331 may be delegated ⁵by the Local Government to Commissioners of Divisions.

(2) In regard to powers or functions delegated to them under this section, Commissioners of Divisions shall have the same authority as the Local Government, and the delegation shall continue until revoked by the Local Government.

(3) A delegation under this section may be of all or any of the powers and functions aforesaid, and may be made generally in regard to all the municipalities within the Division of the Commissioner, or it may be made particularly in regard to certain municipalities only.

¹ The words "or during his absence on leave, as the case may be," in s. 27, were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 18, in Vol. III of this Code.

² Section 27A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 19, in Vol. III of this Code.

³ Three clauses in square brackets in s. 28 were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 20, in Vol. III of this Code.

⁴ Section 29A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 21, in Vol. III of this Code.

⁵ For an order issued under section 29A, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1894.)

(Part II.—Of the Municipal Authorities.—Secs. 30-32.)

(4) The delegation may be by name or by official designation, and shall, in each case, be notified in the Calcutta Gazette.

Of the Property of the Commissioners.

30. All roads,¹ [including the soil, and all] bridges, tanks, *ghāts*, wells, channels and drains in any municipality (not being private property and not being maintained by Government or at the public expense), now existing, or which shall hereafter be made, and the pavements, stones and other materials thereof, and all erections, materials, implements and other things provided therefor, shall vest in, and belong to, the Commissioners.

Public roads, etc., vested in the Commissioners.

But the Local Government² may, from time to time, by notification³, exclude any road, bridge or drain from the operation of this Act⁴ [or of any specified section of this Act], and may cancel such notification wholly or in part:

Provided that, if the cost of the construction of the work shall have been paid from the municipal fund, such work shall not be excluded from the operation of this Act⁴ [or of any specified section of this Act] without the consent of the Commissioners at a meeting.

31. The Commissioners at a meeting may agree with the person in whom the property in any road, bridge, tank, *ghāt*, well, channel or drain is vested to take over the property therein or the control thereof, and after such agreement may declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, *ghāt*, well, channel or drain has been transferred to the Commissioners.

Commissioners may, with consent of owners, take over and repair roads, etc.

Thereupon the property therein, or the control thereof (as the case may be), shall vest in the Commissioners, and such road, bridge, tank, *ghāt*, well, channel or drain shall thenceforth be repaired and maintained out of the municipal fund.

32. Every hospital, dispensary, school, rest-house, *ghāt* and market, not being private property or the property of a religious institution or society, and all medicines, furniture and other articles appurtenant thereto, not being such property, which at and after the commencement of this Act shall be found within any municipality, may, by order⁵ of the

Existing hospitals, schools, rest-houses, etc., may be vested in the Commissioners.

¹ The words "including the soil, and all", in s. 30, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 22, in Vol. III of this Code.

² As to the delegation to Commissioners of Divisions of the Local Government's power, see s. 20A, p. 724, *ante*.

³ For a list of notifications issued under para. 2 of section 30 for Bengal as constituted on the 31st March, 1912, see the Bengal Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

The District Fund, constituted under the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), cannot be applied to the repair, etc., of roads within municipalities until such roads are expressly excluded from the operation of the present Act by notification under s. 30 thereof—see proviso (2) to s. 53 of the former Act, *post*, p. 399.

⁴ These words "or of any specified section of this Act," in s. 30 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 22, in Vol. III of this Code.

⁵ For a list of orders issued under section 32 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part II.—Of the Municipal Authorities.—Secs. 33-37.)

Local Government duly published on the spot, be vested in the Commissioners of such municipality; and thereupon all endowments or funds belonging thereto shall be transferred to, and vested in, such Commissioners as trustees for the purposes to which such endowments and funds were lawfully applicable at the time of such transfer:

Provided that no such order shall be published until one month after notice of the intention to transfer such property shall have been published in the Calcutta Gazette, and within the municipality in the vernacular language of the district.

Transfer to be conditional in certain cases.

33. If the Commissioners at a meeting shall, after publication of the notice mentioned in the last preceding section, object to the transfer to themselves of any hospital, dispensary, school, rest-house, *ghat* or market, on the ground that their funds cannot bear the charge, then such transfer shall not be made save under such conditions as the Commissioners at a meeting may agree to accept.

Power to purchase, lease and sell lands.

34. The Commissioners at a meeting may purchase or take on lease any land for the purposes of this Act, and may sell, let, exchange or otherwise dispose of any land not required for such purposes.

Land may be taken up under Land Acquisition Act, 1894.

35. The Local Government, on the application of the Commissioners at a meeting that any land be acquired for the purposes of this Act, may, on being satisfied that the Commissioners are in a position to pay for such land either at once or in such instalments as the Local Government may think proper, notify, under the provisions of the Land Acquisition Act, 1870¹ or any similar Act for the time being in force for the acquisition of land for public purposes, that such land is required for a public purpose, and may cause such land to be acquired under the provisions of such Act; and, on payment by the Commissioners of the compensation awarded under such Act, the land shall vest in them for the purposes of this Act.

10 of 1870.

Commissioners to pay cost of such land.²

36. The Commissioners shall be bound to pay to the Government the cost of any land which may be acquired for them on their application under the provisions of the last preceding section.

Execution of contracts.

37. The Commissioners may enter into and perform any contract necessary for the purposes of this Act.

Every contract made on behalf of the Commissioners of a municipality in respect of any sum exceeding five hundred rupees, or which shall involve a value exceeding five hundred rupees, shall be sanctioned by the Commissioners at a meeting, and shall be in writing, and signed by at least two of the Commissioners, one of whom shall be the Chairman or Vice-

¹ Act 10 of 1870 has been repealed and re-enacted by the Land Acquisition Act, 1894 (1 of 1894) and this reference should now be construed as a reference to the latter Act—see s. 2 (3) thereof, in General Acts, 1897-97, Ed. 1909, p. 964.

of 1884.]

(Part II.—Of the Municipal Authorities.—Secs. 37A-37C.)

Chairman, and shall be sealed with the common seal of the Commissioners.

Unless so executed, such contract shall not be binding on the Commissioners.

¹**37A.** The Commissioners of any municipality may join with the Commissioners of any other one or more municipalities, or with any District Board² or with any Cantonment Authority³, or with more than one such Board or Cantonment Authority in constituting out of their respective bodies a Joint-Committee, consisting of not more than two members from each of such bodies, for any purpose in which they are jointly interested, and in delegating to any such Joint-Committee any power which might be exercised by either or any of the municipal bodies, or District Boards, or Cantonment Authorities concerned; and such Joint-Committee may from time to time frame rules as to the proceedings of any such Joint-Committee, and as to the conduct of correspondence relating to the purpose for which such Joint-Committee is constituted.⁴

Formation of
Joint-Commit-
tees.

¹**37B.** Whenever it appears expedient to the Commissioners of any municipality, or to the Commissioners of a municipality acting conjointly with the Commissioners of any other municipality or municipalities, or with one or more of any of the local authorities specified in the last preceding section, to provide a supply of water for domestic purposes, or to introduce a system of drainage⁵, they may cause to be prepared a scheme and estimates of the cost of the works necessary for the purpose, together with such plans and specifications of the same as may be necessary, and may submit the same to the Local Government through the Commissioner of the Division within which the area, or the larger portion of the area, which it is proposed to supply with water or to drain is situated.

Voluntary
introduction
of a water-
supply or
system of
drainage.

¹**37C.** The Local Government may refer such scheme, plans, specifications and estimates to the Sanitary Board, who, in consultation with a Committee consisting of one member to be appointed by the municipality or by each of the municipalities or other local authorities concerned, and one member to be appointed by the Commissioner of the Division within which the area, or the larger portion of the area, which it is proposed to supply with water or to drain is situated,

Sanitary
Board with a
Committee to
consider and
report on
scheme.

shall consider the same and report thereon to the Local Government.

¹ Sections 37A to 37M were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 28, in Vol. III of this Code.

² As to District Boards, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), *post*, p. 907.

³ As to Cantonment Authorities, see the Cantonments Act, 1910 (15 of 1910).

⁴ For a similar section applying to Municipal Commissioners, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 80, *post*, p. 919.

⁵ As to the transfer to Joint-Committees of High English schools in municipalities, see the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), s. 64, *post*, p. 936.

⁶ For an alternative procedure, see the Bengal Sanitary Drainage Act, 1895 (Ben. Act 8 of 1895), ss. 4, 28, in Vol. III of this Code.

(Part II.—Of the Municipal Authorities.—Secs. 37D-37F.)

Local Government may sanction, modify or refer scheme.

37D. The Local Government shall consider the report, together with the plans, specifications and estimates, and may thereupon—

- (a) sanction the scheme, or
- (b) add to, alter or modify the scheme and sanction the same so added to, altered or modified, or
- (c) add to, alter or modify the scheme and refer the same so added to, altered or modified, together with the plans, specifications and estimates, to the Sanitary Board, who, in consultation with the said Committee, shall further consider the scheme so added to, altered or modified, and report thereon to the Local Government.

Distribution of costs of scheme.

37E. (1) When the scheme recommended for sanction extends to two or more municipalities or other local areas, the Sanitary Board, acting in consultation with the Committee, as constituted under section 37C, shall include in their report proposals for distributing the cost of the scheme, including its maintenance and working expenses, between or among the local authorities benefited.

(2) In the case of municipalities, such distribution shall be in proportion to the income derived by each from taxation, allowance being made for any difference in the degree of benefit conferred on each, such as, in the case of a water-supply scheme, the pressure at which the water is delivered, the facilities for procuring water, the distance from the head-works, and the like.

Approved scheme to be published.

37F. (1) When the scheme has been approved by the Local Government, there shall be published, in the Calcutta Gazette and locally in accordance with the provisions of section 354, the following particulars:—

- (a) a general description of the scheme;
- (b) an estimate of the cost of carrying it out;
- (c) an estimate of the cost of maintaining it;
- (d) the source from which the cost will be met;
- (e) the amount of the loan, if any, the annual instalments by which it will be repayable, and the number of years required to repay it;

and, where several local authorities are concerned,

- (f) the distribution of the loan;

and

(g) where the scheme is for providing or improving the water-supply, the following additional particulars in respect of each municipality concerned:—

- (a) the total annual charge to be incurred by reason of the water-supply and to be met by a water-rate;

¹ See foot-note 1 on page 737, ante.

[1884.]

(Part II.—Of the Municipal Authorities.—Secs. 37G-37K.)

(b) the percentage of such water-rate on the annual value of holdings;

(c) the average incidence of such water-rate per head of the population.

37G. After the expiry of two months from the date of such publication, and after considering any objections or suggestions that may be submitted, the Local Government may sanction or reject the scheme as published, or may refer it, with such suggestions as it may think fit, to the Sanitary Board, who, in consultation with the same Committee as aforesaid, shall consider the scheme with a view to its amendment, and when the scheme shall have been so considered, it shall be forwarded to the Local Government, and the provisions of this and the last preceding section shall be applied.

Sanction of scheme.

37H. When a scheme has been sanctioned by the Local Government under the last preceding section, the Commissioners of the municipality or municipalities, or the local authorities concerned shall, if the rate and other monies to be collected, received or recovered for or in respect of the water-supply or drainage system be sufficient for the purpose, proceed to carry it out, and where two or more municipalities or local authorities are concerned, a Joint-Committee may be formed for that purpose according to rules to be framed in this behalf by the Local Government.

Scheme to be carried out by municipalities.

37I. The Local Government may order the works specified in any scheme, plans, specifications and estimates, or any portion thereof, to be executed by an officer to be appointed by it, and shall fix the remuneration of such officer (provided that the cost of the scheme as sanctioned be not exceeded): and may specify a period within which the work shall be completed, and may extend such period from time to time as may be necessary.

Local Government may appoint an officer to execute the works

37J. The cost of making plans, specifications and estimates, and the travelling expenses incurred by the members of the committee in attending the meetings of the Sanitary Board for the consideration of the scheme, and the cost of carrying out the scheme if the same be proceeded with, may be advanced from the public funds on the security of the fund or funds of the municipality or municipalities or other local authority or authorities concerned, and shall be recoverable under ¹[the Local Authorities Loan Act, 1879,] and all the provisions of that Act, and the rules made under it referring to the recovery of loans, shall be applicable to such advances.

Cost of the scheme may be advanced from the public funds.

37K. (1) When it appears to the Local Government that the Commissioners of any municipality, or the Commissioners of a municipality, acting conjointly with the Commissioners of

Compulsory introduction of water-supply or system of drainage.

¹ See foot-note ¹ on page 727, *ante*.

² The words and figures "the Local Authorities Loan Act, 1879," were substituted for the words and figures "the Loans Act of 1879" by the Amending Act, 1897 (5 of 1897), Sch. II—see Vol. I of this Code. The Local Authorities Loan Act, 1879 has since been repealed and re-enacted by the Local Authorities Loans Act, 1914 (9 of 1914), and this reference should now be construed as a reference to the latter Act—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1903, p. 679.

(Part II.—Of the Municipal Authorities.—Sec. 37L.)

any other municipality or municipalities or with one or more of any other local authorities specified in section 37A, should be required to provide a supply of water for domestic purposes, or to introduce a system of drainage, it may call upon such Commissioners to show cause within a specified time why they should not be so required, and the Local Government shall consider any objections which may be submitted by the Commissioners, and, if it considers such objections insufficient, it may, after publishing in the Calcutta Gazette a full statement of the reasons which have led to action being taken, by an order in writing, fix a time within which the Commissioners shall submit such a scheme, plans, specifications and estimates as are referred to in section 37B, in the manner therein provided:

Provided that when the Commissioners of one municipality are required to show cause, as aforesaid, a resolution against the introduction of such scheme passed at a meeting specially convened for the purpose, in favour of which a majority of not less than two-thirds of the whole number of Commissioners shall have voted, or when the Commissioners of two or more municipalities are required to act conjointly with each other for that purpose, a similar resolution passed by the Joint-Committee constituted under section 37A, in favour of which a majority of not less than two-thirds of the total number of votes allotted to such municipalities and apportioned to each of them, according to their respective incomes shall have been recorded, shall be final, and in either case no further action shall be taken by the Local Government under the provisions of this section.

(2) When the said order has been complied with, the provisions of sections 37C to 37J inclusive shall apply.

(3) If default is made in complying with the said order, the provisions of section 64 shall apply:

Provided that in the case of a municipality mentioned in the first Schedule and not required to act conjointly with any other municipality or local authority, if within two months from the date of the publication of the particulars of any such scheme in the Calcutta Gazette under section 37F, a petition is presented to the Local Government by a majority of not less than two-thirds of the registered rate-payers of a municipality objecting to the compulsory introduction of such scheme into such municipality, the Commissioners thereof shall not be compelled to carry out such scheme.

37L. The provisions of Part VII shall, notwithstanding anything in section 86, 220, 221, 222, 223, 279 or 287, apply to

*The original section 37L was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 28. The present s. 37L was substituted for it by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 4, in Vol. III of this Code. The original section ran thus:—

"37L. The provisions of Part VII shall apply to any municipality in which a water-supply shall have been provided."

OF 1884.]

(Part II.—Of the Municipal Authorities.—Secs. 37M-48.)

every municipality in which a water-supply is provided under section 37 K.

¹ **37 M.** The powers conferred on the Commissioners by sections 37 A to 37 L inclusive shall not be exercised by the Chairman under section 44.

Chairman not to exercise powers of Commissioners.

Of the Mode of transacting the Business of the Municipality.

38. The Commissioners shall meet for the transaction of business (if there be any business to be transacted) at their office, or at some other convenient place, at least once in every month, and as often as a meeting shall be called by the Chairman, or, in his absence, by the Vice-Chairman.

Commissioners to meet ordinarily once a month.

If there shall be no business to be laid before the Commissioners at any monthly meeting, the Chairman shall, instead of calling the meeting, give notice of the fact to each Commissioner three days before the date which is appointed for the monthly meeting.

² [Accidental omission to serve notice of a meeting on any Commissioner shall not affect the validity of a meeting.]

Meeting not invalidated by non-service of notice. Commissioners to meet at other times on special requisition.

39. The Chairman, or, in his absence, the Vice-Chairman shall call a special meeting on a requisition signed by not less than three of the Commissioners.

³ [If the Chairman or the Vice-Chairman fails to call a special meeting within thirty days after any such requisition has been made, the meeting may be called by the persons who signed the requisition.]

40. The Chairman, or, in his absence, the Vice-Chairman shall preside at every meeting, and, in the absence of both the Chairman and Vice-Chairman, the Commissioners shall choose some one of their number to preside.

Who to preside at meetings of the Commissioners.

41. All questions which may come before the Commissioners at a meeting shall be decided by a majority of votes, unless otherwise provided in this Act.

Questions to be decided by majority.

In case of equality of votes, the President shall have a second or casting vote.

Casting vote.

42. No business shall be transacted at any meeting of the Commissioners unless such meeting has been called by the Chairman or Vice-Chairman, ⁴ [or, under section 39, by persons signing a requisition,] nor unless a quorum shall be present.

Quorum.

¹ See foot-note ¹ on page 727 ante.

² This paragraph in square brackets in s. 38 was added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 24, in Vol. III of this Code.

³ This paragraph in square brackets in s. 39 was added by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 5, in Vol. III of this Code.

⁴ The words and figures "or, under section 39, by persons signing a requisition," in s. 42, were inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 6 (1), in Vol. III of this Code.

(Part II.—Of the Municipal Authorities.—Secs. 43-46.)

A quorum shall be, in any municipality in which the Commissioners are more than fifteen, five;

in any other municipality, a number being not less than one-third of the entire number of Commissioners.

Adjourned
meeting.

If, at the time appointed for a meeting, or within one hour thereafter, a quorum is not present, the meeting shall stand adjourned to some future day to be appointed by the [President], and three days' notice of such adjourned meeting shall be given. The members present at such adjourned meeting shall form a quorum, whatever their number may be.

Minutes of
Proceedings.

43. Minutes of the proceedings of all meetings of the Commissioners shall be entered in a book to be kept for the purpose, and shall be signed by the President of the meeting, and such book shall be open to the inspection of the tax-payers.

Powers of
Chairman.

44. The Chairman shall, for the transaction of the business connected with this Act, or for the purpose of making any order authorized thereby, exercise all the powers vested by this Act in the Commissioners:

Provided that the Chairman shall not act in opposition to, or in contravention of, any order of the Commissioners at a meeting, or exercise any power which is directed to be exercised by the Commissioners at a meeting.

Chairman
may delegate
his duties or
powers to
Vice-Chair-
man.

45. The Chairman may, by a written order, delegate to the Vice-Chairman all or any of the duties or powers of a Chairman as defined in this Act, subject to such restrictions as may seem fit to him, and may at any time by a written order withdraw or modify the same:

Provided that nothing done by the Vice-Chairman which might have been done under the authority of a written order from the Chairman, shall be invalid for want of or defect of such written order, if it be done with the express or implied consent of the Chairman previously or subsequently obtained.

Appointment
of subordinate
officers.

46. The Commissioners at a meeting shall from time to time decide whether a paid Secretary, Engineer, * Health officer [or Assessor] is required or not, and what number of subordinate officers, servants and collectors of taxes or tolls may be necessary for the municipality, and shall from time to time fix the salaries to be paid to such persons respectively out of the municipal fund, and the allowances to be granted to such persons during absence on leave.

* The word "President", in s. 42, was substituted for the words "Chairman or Vice-Chairman" by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 6 (2), in Vol. III of this Code.

* As to the application of s. 46 to the Registrar of Hackney-carriages, see the Calcutta Hackney-carriage Act, 1891 (Ben. Act 2 of 1891), s. 5 (3), and foot-note thereto, in Vol. III of this Code.

* The word "or", in s. 46, was repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 35, and is omitted.

* The words "or assessor", in s. 46, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 35, in Vol. III of this Code.

[1884.]

(Part II.—Of the Municipal Authorities.—Secs. 47-50.)

Subject to the scale of establishment decided upon by the Commissioners under this section, the Chairman shall have power to appoint such persons as he may think fit, and from time to time to remove such persons and appoint others in their places:

Provided that no person shall be appointed to an office the salary of which is fifty rupees *per mensem* or upwards, without the sanction of the Commissioners at a meeting, and that no officer, whose salary is more than twenty rupees *per mensem*, shall be dismissed without such sanction.

47. The Commissioners at a meeting, specially convened for the purpose, may, by a resolution in favour of which not less than two-thirds of the Commissioners present at such meeting shall have voted, from time to time make rules¹ for—

Commissioners may frame rules for pensions and gratuities or for the creation of a provident or annuity fund.

- (a) the granting of pensions and gratuities out of the municipal fund; or
- (b) the creation and management of a provident or annuity fund for compelling contribution thereto on the part of their officers and servants, and for supplementing such contribution out of the municipal fund;

and may repeal or alter such rules.

The Commissioners at a meeting may, from time to time, in accordance with such rules for the time being in force, grant such pensions or gratuities, or grant allowances or annuities out of such provident or annuity fund to any of their officers or servants, as they may see fit.

48. In the case of a Government official employed by the Commissioners, the Commissioners may—

Pension, etc., to Government officials.

- (1) if his services are wholly lent to them, contribute to his pension, gratuities and leave allowances in accordance with the rules of the Government Civil Pension and Leave Codes² for the time being in force; and
- (2) if he devotes only a part of his time to the performance of duties in behalf of the Commissioners, contribute as above in such proportion as may be determined by the Local Government.

49. The Commissioners may take such security as they may think proper from any officer or servant in their employ.

Security from officers or servants.

Of Ward Committees.

50. The Commissioners at a meeting may divide any municipality into wards, and thereupon appoint, or cause to be elected for each ward, not less than three proper

Appointment or election of Ward Committee.

¹ For a list of rules made under s. 47 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.
² See now the Civil Service Regulations, 5th edition, 1910.

(Part II.—Of the Municipal Authorities.—Secs. 51-56.)

persons, whether such persons be or be not Commissioners for the time being, to be members of the Ward Committee; and the Commissioners at a meeting may define the limits of the ward for which any Ward Committee may be appointed or elected.

Commissioners may lay down rules for election.

51. The Commissioners at a meeting may lay down rules, not being inconsistent with the provisions of this Act, in respect of the qualifications required to entitle any person who is not a Commissioner to stand as a candidate for such election, and to entitle any person to vote for any candidate, and in respect of the mode of election.

And the Commissioners may at any time cancel any rule made by them under this section for such election.

Election of Chairman and Vice-Chairman of Ward Committee.

52. Each Ward Committee may, for each year if it sees fit, elect its own Chairman and Vice-Chairman (if necessary) from among its own number:

Provided that, if one or more Commissioners are members of the Ward Committee, the Chairman of the Ward Committee shall be a Commissioner.

Commissioners may delegate power to Ward Committee.

53. The Commissioners at a meeting may delegate to a Ward Committee such of the powers of Commissioners under this Act as to them may seem fit; and such Ward Committee within the limits of its ward, as defined by the Commissioners at a meeting, may exercise all or any of such powers, and shall be liable to all the obligations imposed by this Act on Commissioners in respect of such powers.

All acts done, orders issued and assessments made, by Ward Committees, shall be subject to the control and revision of the Commissioners at a meeting, who may at any time withdraw all or any of such powers.

Certain sections applicable to transaction of business by Ward Committees.

54. The provisions of sections 38 to 45 (both inclusive) shall, as far as possible, be applicable to the transaction of business by Ward Committees, and the Commissioners shall sanction the establishment of Ward Committees in accordance with the provisions of section 46.

Removal, resignation and appointment of members.

55. All questions regarding the removal, resignation and appointment of members of Ward Committees shall be settled by the Commissioners at a meeting.

Liability of Commissioners and Ward Committees.

Personal liability of Commissioner or member of Ward Committee.

56. No Commissioner or member of a Ward Committee shall be personally liable for any contract made, or expense incurred, by or on behalf of the Commissioners.

Every Commissioner or member of a Ward Committee shall be personally liable for any wilful misapplication of money entrusted to the Commissioners to which he shall knowingly have been a party, and he shall be liable to be sued for the same.

of 1894.]

(Part II.—Of the Municipal Authorities.—Secs. 57-59.)

57. No Commissioner or member of a Ward Committee shall have, directly, or indirectly, ¹ any share or interest in any contract ²[of any kind whatsoever to which the Commissioners are a party, or shall hold any office of profit under them.] and if any Commissioner shall have such share or interest ³[or shall hold such office] he shall thereby become disqualified to continue in office as Commissioner, and shall be liable to a fine not exceeding five hundred rupees:

Disqualifica-
tion of
Commissioners having
share or
interest in
contracts.

⁴ [Provided that] a Commissioner shall not be so disqualified by reason only of his having a share or interest in—

- (a) a contract entered into between the Commissioners and any incorporated or registered company of which such Commissioner is a member or shareholder; or
- (b) any lease, sale or purchase of land, or any agreement for the same; or
- (c) any agreement for the loan of money, or any security for the payment of money only; or
- (d) any newspaper in which any advertisement relating to the affairs of the municipality is inserted.

But no such Commissioner shall act as Commissioner or member of a Ward Committee, or take part in any proceedings relating to any matter in which he is so interested.

58. No Commissioner or member of a Ward Committee shall vote on any matter affecting his own conduct or pecuniary interest, or on any question which regards exclusively the assessment of himself, or the valuation of any property in respect of which he is directly or indirectly in any way interested, or of any property of or for which he is manager or agent, or his liability to any tax.

Commis-
sioners
disqualified
from
voting on
certain
questions.

Control.

59. All resolutions passed by the Commissioners under the following sections, that is to say:—

Certain
resolutions
subject to
approval of
Government.

- (a) under section 23 ⁵[or 27], for the election of a Chairman;

¹ The words "by himself or through others," in s. 57, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 26, and are omitted.

² These words in square brackets, in s. 57, were substituted for the words "made with the Commissioners" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 26, in Vol. III of this Code.

³ The words "or shall hold such office," in s. 57, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 26, in Vol. III of this Code.

⁴ The words "Provided that," in s. 57, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 26, in Vol. III of this Code.

⁵ This section was substituted for the original s. 58 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 27, in Vol. III of this Code. The original section 58 ran as follows:—

"58. No Commissioner or member of a Ward Committee shall vote on any question which regards exclusively the assessment of himself, or the valuation of his property, or of the property for which he is manager or agent or his liability to any tax."

⁶ The word and figure "or 27," in s. 59, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 26, in Vol. III of this Code.

(Part II.—Of the Municipal Authorities—Secs. 60-63.)

- (b) under section 24, for the removal of a Chairman from office;
- (c) under section 28, for the grant of allowances to a Chairman or Vice-Chairman;
- (d) under section 47, for the making, repeal or alteration of rules for the grant of pensions or gratuities, or for the creation and management of provident or annuity funds,

shall be subject to the approval of the Local Government.

Copy of minutes to be sent to Magistrate.

60. A copy of the minutes of the proceedings of all meetings of the Commissioners referred to in section 43 shall be forthwith forwarded by the Commissioners to the Magistrate of the district.

Sanction to appointment of subordinate officers.

61. The appointment by the Commissioners of subordinate officers, as provided by section 46, shall be subject to the following rules :—

- (a) no appointment, of which the salary is two hundred rupees *per mensem* or upwards, shall be created or abolished, without the sanction of the Local Government;
- (b) no person shall be appointed to, or dismissed from, an office, the salary of which is one hundred rupees *per mensem* or upwards without the sanction of the Commissioner of the Division.

Magistrate's power of inspection.

62. The Magistrate of the district, or the Magistrate in charge of the division of the district in which a municipality is situate, may enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by the Commissioners, or any work in progress under their direction; and may call for and inspect any document which may be, for the purposes of this Act, in the possession or under the control of the Commissioners.

Power to suspend action under Act.

63. The Commissioner of the Division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of the Commissioners of any municipality, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of, or under cover of, this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public, or to any class or body of persons.

When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it

of 1884.]

(Part II.—Of the Municipal Authorities.—Secs. 64-66.)

continue in force with or without modification, permanently or for such period as it thinks fit.

64. If at any time it appears to the Local Government, on the report of the Magistrate of the district or of the Commissioner of the Division, that the Commissioners of any municipality have made default in performing any duty imposed on them by or under this or any other Act, the Local Government may, by an order in writing, fix a time for the performance of that duty.

Powers of Local Government in case of default.

If that duty is not performed within the period so fixed, the Local Government may appoint the Magistrate of the District to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate from the municipal fund.

If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is from time to time possible from the balance, in priority to any or all other charges against the same.

65. If, in the opinion of the Local Government, the Commissioners of any municipality are not competent to perform, or persistently make default in the performance of the duties imposed on them by or under this Act or otherwise by law, or exceed or abuse their powers, the Local Government may, by an order published, with the reasons for making it, in the Calcutta Gazette, declare such Commissioners to be incompetent, or in default, or to have exceeded or abused their powers, as the case may be, and supersede them for a period to be specified in the order.

Power to supersede Commissioners in case of incompetency, default or abuse of powers.

66. When an order of supersession shall have been passed under the last preceding section, the following consequences shall ensue:—

Consequences of supersession.

- (a) all the Commissioners shall, as from the date of the order, vacate their offices as such Commissioners;
- (b) all the powers and duties of the Commissioners¹ shall, during the period of supersession, be exercised and performed by such person or persons as the Local Government may direct;
- (c) all property vested in such Commissioners shall, during the period of supersession, vest in the Government.

¹Section 2 of the Bengal Municipal (Amendment and Validation) Act, 1910 (Ben. Act 3 of 1910, in Vol. III of this Code), which originally applied to Western Bengal only, but sections 1 and 2 of which were extended to Western Bengal by Ben. Act 1 of 1914, sec. 3, Sch. 1, runs thus:—

"2. The expression 'all the powers and duties of the Commissioners' in clause (b) of section 66 of the Bengal Municipal Act, 1884, shall include, and shall be deemed always to have included, powers and duties which may be exercised and performed at a meeting of the Commissioners, as well as powers and duties which may be exercised and performed otherwise than at such a meeting."

(Part II.—Of the Municipal Authorities.—Part III.—Of the
Municipal Fund.—Secs. 66A, 67.)

On the expiration of the period of supersession specified in the order, it shall be lawful for the Local Government to direct¹ that the municipality shall be entered in the first Schedule or the second Schedule, or in both the first and second Schedules; but otherwise the Commissioners shall be re-established by appointment and election, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for appointment or election.

Disputes.

66A. (1) If any dispute, for the decision of which this Act does not otherwise provide, arises between the Commissioners of two or more municipalities constituted under this Act, or between the Commissioners of any such municipality and a District Board, or Cantonment Authority, the matter shall be referred—

- (a) to the District Magistrate, if the local authorities concerned are in the same district; or
- (b) to the Commissioner or Commissioners of the Division or Divisions, if the local authorities concerned are in different districts; or
- (c) to the Local Government, if the local authorities concerned are in different Divisions and the Commissioners of those Divisions cannot agree.

(2) The decision of the authority to which any dispute is referred under this section shall be final.

(3) If, in the case mentioned in clause (a), the District Magistrate is a member of one of the local authorities concerned, his functions under this section shall be discharged by the Commissioner of the Division.

PART III.

OF THE MUNICIPAL FUND

What shall
constitute the
Municipal
Fund.

67. All sums received by the Commissioners, and all fines paid or levied in any municipality under this Act, and all other sums which, under the sanction of Government, may be transferred to the Commissioners, shall constitute a fund which shall be called the "Municipal Fund,"² and shall, together with all property of every nature or kind whatsoever which may become vested in the Commissioners, be under their control,

¹ For orders issued under section 66 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² Section 66A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 22, in Vol. III of this Code.

³ Fines levied under the Dargazling and Karsong Municipal (Forfeiture) Act, 1893 (Ben. Act 5 of 1893), are to be placed to the credit of the Municipal Fund—see s. 23 of that Act, ante, p. 698.

[1894.]

(Part III.—Of the Municipal Fund.—Secs. 68, 69.)

and shall be held by them in trust for the purposes of this Act.

68. ¹[Except as is otherwise provided in this Act.] the Commissioners shall set apart and apply annually out of the municipal fund—

Payment on account of interest on loans and establishment.

- (a) firstly, such sum as may be required for the payment of the interest which may fall due on any loan contracted by the Commissioners;
- (b) secondly, such sum as they are by this Act required to provide for payment of their own establishment, including such contributions as are referred to in section 48;
- (c) thirdly, such sum as the Local Government may direct towards the cost of audit. * * * towards the cost of establishments in any office of account or in any treasury ²[and towards the salary of any special officer who may be appointed under section 82]:

Provided that the total amount which any municipality may be required to pay under clause (c) ³[otherwise than as the salary of a special officer appointed under section 82] shall not in any year exceed two *per centum* on the amount of the municipal income for such year.

69. (1) After the said sums have been set apart under section 68, the Commissioners at a meeting shall, as far as the municipal fund permits, from time to time cause roads, bridges, tanks, *ghāts*, wells, channels, drains and privies, being the property of the Commissioners, to be maintained and repaired, and the municipality to be cleansed;

Purposes to which municipal fund is applicable.

and may, except as is otherwise provided in this Act, and subject to such rules⁴ and restrictions as the Local Government may from time to time prescribe, apply the municipal fund to any of the following purposes within the municipality, that is to say,—

- (i) the construction, maintenance and improvement of roads, tramways, bridges, squares, gardens, tanks, *ghāts*, wells, channels, drains and privies;
- (ii) the supply of water, and the lighting and watering of roads;

¹The words "Except as is otherwise provided in this Act," in s. 68, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80 (1), in Vol. III of this Code.

²The word "and", in s. 68 (c) was repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80 (2), and is omitted.

³These words and figures in square brackets in s. 68 (c) were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80 (2), in Vol. III of this Code.

⁴These words and figures in square brackets in the proviso to s. 68 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80 (3), in Vol. III of this Code.

⁵The sections 69, 69A and 69B were substituted for the former section 69 by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 7, in Vol. III of this Code.

⁶For lists of rules made under section 69 for Bengal as constituted on the 31st March, 1913, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

(Part III.—Of the Municipal Fund.—Sec. 69.)

- (iii) the erection and maintenance of offices and other buildings required for municipal purposes;
- (iv) the construction and repair of school-houses, either wholly or by means of grants-in-aid;
- (v) the establishment and maintenance of schools, either wholly or by means of grants-in-aid;
- (vi) the establishment and maintenance of hospitals and dispensaries;
- (vii) the promotion of vaccination;
- (viii) the acquiring and keeping of open spaces for the promotion of physical exercise and education;
- (ix) the training and employment of female medical practitioners¹ and of veterinary practitioners;
- (x) the establishment and maintenance of veterinary dispensaries for the reception and treatment of horses, cattle and other animals;
- (xi) the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals;
- (xii) the improvement of the breed of horses, cattle and asses, and the breeding of mules;
- (xiii) the establishment and maintenance of free libraries;
- (xiv) the maintenance of a fire-brigade;
- (xv) other works of public utility calculated to promote the health, comfort or convenience of the inhabitants;
- (xvi) the establishment and maintenance of benches for the trial of offences under this Act or any by-laws made thereunder, and
- (xvii) generally, to carrying out the purposes of this Act:

Provided that no portion of the municipal fund shall be applied to any of the purposes specified in clauses (viii) to (xiii) (both inclusive), unless a majority of the Commissioners present at the meeting are satisfied that the other purposes specified or referred to in this sub-section, or such of them as the majority consider it necessary to carry out, have been sufficiently provided for.

[2] *The Municipal Fund shall also be applicable to the payment, at such rates as the Local Government may from time to time direct, of travelling expenses incurred by any of the Commissioners in attending meetings convened under the rules made by the Local Government in pursuance of sub-section (4) of section 1 of the Indian Councils Act, 1892², for the purpose of recommending a person to be nominated as a member of the Lieutenant-Governor's Council.³*

55 & 56 Vict.,
c. 14.

¹ As to the meaning of the expression "medical practitioners" generally, see the Bengal Medical Act, 1914 (Ben. Act 6 of 1914), s. 89, in Vol. III of this Code.

² Section 1 of the Indian Councils Act, 1892, has been repealed by s. 6 (3) of the Indian Councils Act, 1909 (3 Edw. 7, c. 6).

³ The Lieutenant-Governor's Council has ceased to exist.

OF 1881.]

(Part III.—Of the Municipal Fund.—Secs. 69A-70.)

(3) The Commissioners may do all things, not being inconsistent with this Act, which may be necessary to carry out the purposes of this section.

¹ **69A.** (1) The Commissioners shall cause to be kept, for each hospital and dispensary vested in them, accounts, in such form as may be prescribed by rules made by the Local Government, showing—

Receipts and expenditure on account of hospitals and dispensaries.

(a) all endowments, funds and contributions received by them,

(b) all sums directed by them to be applied to establishment or maintenance, and

(c) all expenditure incurred by them.

(2) No money which has been received by the Commissioners on account of any hospital or dispensary, or directed by them to be applied to the establishment or maintenance of any hospital or dispensary, shall be expended on any other object.

¹ **69B.** The Local Government may from time to time make rules²—

Power to make rules.

(i) prescribing the qualifications of candidates for employment under clause (xi) of section 69; and

(ii) generally, for the guidance of the Commissioners in all matters connected with the carrying out of the purposes of sections 69 and 69A.

70. With the consent of two-thirds of the Commissioners obtained in writing, and with the sanction of the Local Government, the Commissioners may contribute a portion of the municipal fund towards the expenses incurred in any other municipality or elsewhere, for any of the purposes mentioned in [section 69, sub-section (1)], or towards the salary of any officer under another authority whose services are employed by them; and also towards the expenses of making, maintaining and repairing any work for the improvement of a river or harbour (by whomsoever such work may be done).

* Expenditure outside municipality.

But no contribution shall be made under this section to any work unless the same is calculated to benefit the inhabitants of the contributing municipality.

‘[Notwithstanding anything in this section, the municipal fund may be applied, by the vote of the majority referred to in the proviso to section 69, sub-section (1), and without the consent and sanction mentioned in this section, to meeting expenses incurred beyond the limits of the municipality in the

¹ See foot-note * on page 739, ante.

² For lists of rules made under section 69 B for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ The words and figures “section 69, sub-section (1)”, in s. 70, were substituted for the words, “the last preceding section” by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 3 of 1896), s. 8 (1), in Vol. III of this Code.

⁴ This paragraph was added by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 8 (3), in Vol. III of this Code.

(Part III.—Of the Municipal Fund.—Secs. 71-76.)

training of female medical practitioners¹ or of veterinary practitioners.]

Account books to be kept open and quarterly statement published.

71. The account-books of the municipality shall be open to the inspection of any tax-payer at the office of the Commissioners on a day or days to be fixed in each month.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter, and shall, with the account-books, be open to the inspection of any tax-payer.

A similar account shall be prepared for each year as soon as possible after its close, and shall be open to inspection as aforesaid.

Annual estimates to be prepared.

72. The Commissioners, at a meeting held at least two months before the close of the year, shall prepare in detail estimates showing the probable receipts and expenditure during the ensuing year and the objects in respect of which it is proposed to incur such expenditure.

Estimates to be published.

73. Copies of the estimates and translations thereof in the vernacular of the district shall be lodged in the office of the Commissioners.

During fourteen days after the estimates shall have been so lodged in the said office, of which due notice shall be locally published, the estimates and translations in the vernacular of the district shall be open to inspection at all reasonable times by any tax-payer of such municipality who may desire to inspect the same.

Any written suggestion which may be deposited in the office of the Commissioners shall be recorded and laid before them for consideration at the next meeting.

Estimates to be transmitted to Magistrate.

74. After the expiration of the said fourteen days, and after such revision as may appear requisite, the estimates shall be transmitted to the Magistrate of the district.

Magistrate may record remarks.

75. The Magistrate may either forward the estimates to the Commissioner of the Division, or may return them to the Commissioners with such remarks and suggestions as he shall think fit to record. And the Commissioners at a meeting shall take into consideration the Magistrate's remarks, and shall either adopt his suggestions or shall record in writing their reasons for refusing to do so; and the estimates shall thereupon be returned to the Magistrate for transmission to the Commissioner of the Division.

Powers of Commissioner as to estimates.

76. The Commissioner of the Division may either sanction the estimate as it stands . . . or may cause it to be returned to the Commissioners for such modifications as he may think necessary; and, when such modifications have been

¹ As to the meaning of the expression "medical practitioners" generally, see the Bengal Medical Act, 1914 (Ben. Act 6 of 1914), s. 80, in Vol. III of this Code.

² The words "or sanction it after making such alterations therein as may seem to him fit," in s. 76, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 82 and are omitted.

of 1884.]

(Part III.—Of the Municipal Fund.—Secs. 77-80.)

made, the estimate shall be re-submitted for ratification to the Commissioner of the Division,¹ [or if such modifications as may be recommended are not made, it shall be open to the Commissioner of the Division to make such alterations as may seem to him fit];

Provided that the Commissioner of the Division shall not raise the total of the proposed expenditure above the sum shown by the estimate to be at the disposal of the Commissioners.

77. The Commissioners at a meeting may, from time to time, revise any estimate of expenditure with the view of providing for any modifications which they may deem it advisable to make in the appropriation of the amount at their disposal, and such revised estimate shall be published and forwarded in the manner hereinbefore prescribed; and the Magistrate and the Commissioner of the Division may deal with such revised estimate in the manner provided above.

Estimate of expenditure may be revised.

78. After the estimates of the municipality for the year shall have been sanctioned as above, the Commissioners at a meeting may, from time to time, by a general or a special resolution, authorize the expenditure of any sum provided in such estimates, or any part of such sum, for the purpose to which it has been assigned in such estimate.

Disbursement of expenditure sanctioned in estimate.

Notwithstanding anything contained in this section, the Local Government may lay down such rules² as it may think fit, limiting or regulating the powers of any municipality in respect to the expenditure of money for purposes which are provided for in the budget estimates of the year.

79. If any work is estimated to cost above five thousand rupees, the Local Government may require the plans and estimates of such work to be submitted for its approval, or for the approval of any officer of Government, before such work is commenced; and may require statements of the progress and completion of such work, with accounts of the expenditure on the same, to be submitted from time to time, in such form as it may prescribe, for its approval, or for the approval of such officer.

Power of Local Government, if work estimated to cost more than five thousand rupees.

80. It shall not be lawful for the Commissioners to authorize the expenditure on any object during the year of a sum in excess of that which has been sanctioned in the estimate of the year, or in a revised estimate, for such object, but, if it be found necessary in the course of the year, the Commissioners may recommend to the Commissioner of the Division that the allotments which have been made to the different heads of the estimate shall be modified by transfer of any amount from one head to another, and the Commissioner of the Division may sanction such transfers of allotment.

Disbursement of excess expenditure.

¹ These words in square brackets in s. 76 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 82, in Vol. III of this Code.

² For rules made under s. 78 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part III.—Of the Municipal Fund.—Secs. 81-84.)

An annual report of proceedings, etc., to be submitted.

81. The Commissioners shall, at such time and in such form as the Local Government shall direct, furnish annually a report of their proceedings and statements of the works executed by them, and of all sums received and expended by them.

The report and any orders which may be passed thereon by Government shall be open to the inspection of the tax-payers at the office of the Commissioners with the account-books and the quarterly and the annual accounts.

Keeping of registers and submission of returns.

82. (1) The Commissioners shall keep such registers, use such forms and submit such returns as the Local Government may from time to time prescribe.²

(2) The municipal accounts shall be audited each year in such manner as the Local Government may direct³:

Local Government may appoint special officer to examine and report upon accounts.

Provided that if the officer appointed to make the yearly audit in any municipality shall report that the accounts are in such confusion that the financial position of the municipality cannot readily be ascertained, the Local Government may, by an order in writing, require the Commissioners to submit, within a time and to a person to be specified in such order, the accounts duly adjusted; and, if the Commissioners fail to comply with such order, the Local Government may appoint⁴ a special officer to examine and report upon the accounts, and shall fix the salary of such special officer, which salary shall be paid from the municipal fund, unless the Local Government shall otherwise direct.

Custody of the municipal fund.

83. Unless the Local Government shall otherwise direct, all sums received on account of the municipal fund shall be paid into a Government treasury, or into any bank or branch bank used as a Government treasury in or near to the municipality, and shall be credited to an account to be called the account of the municipality to which they belong:

Provided that the Commissioners may invest any moneys not required for immediate use either in Government securities, or in any other form of security which may be approved of by the Local Government.

Orders for payment of money from municipal fund.

84. Unless the Commissioner of the Division shall expressly extend (as he is hereby empowered to do, on the recommendation of the Commissioners at a meeting) the limit of the powers of the Chairman or Vice-Chairman in this behalf, all orders for the payment of money from the municipal fund, if for a sum not above five hundred rupees, shall be signed by the Chairman or Vice-Chairman; and all orders for larger sums

¹ This section was substituted for the original section 82 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 28, in Vol. III of this Code. The original section ran as follows:—

“82. The municipal accounts shall be kept in such form, and shall be audited each year in such manner, as the Local Government shall direct.”

² For a list of rules made under section 82 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ For appointments made under section 83 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part IV.—Of Municipal Taxation.—Secs. 85, 86.)

by both of the said officers or by one of the said officers and another Commissioner.

No such orders shall be issued otherwise than for the payment of money of which the expenditure has been authorized by the Commissioners at a meeting, as provided in section 78.

PART IV.

OF MUNICIPAL TAXATION.

85. The Commissioners may, from time to time, at a meeting convened expressly for the purpose, of which due notice shall have been given, and with the sanction of the Local Government impose¹ within the limits of the municipality one or other²[or] both, of the following taxes:—

Tax upon persons or holdings.

- (a) a tax upon persons occupying holdings within the municipality according to their circumstances and property within the municipality:

Provided that the amount assessed upon any person in respect of the occupation of any holding shall not be more than eighty-four rupees *per annum*; or

- (b) a rate on the annual value of³ holdings situated within the municipality:

Provided that such rate shall not exceed seven and a half *per centum* on the annual value of such holdings, except within the municipalities of 'Howrah, [Patna.] Dacca and Darjeeling, in which it shall not exceed ten *per centum* on such annual value: and provided also that no rate shall be imposed on any holding of which the annual value is less than six rupees:

⁴[Provided that both the taxes shall not be in force at the same time in the same ward.]

86. The Commissioners may, from time to time at a meeting convened as aforesaid, and with the sanction of the Local Government, order⁵ that the following tax, fee, tolls and rates, or any of them, be levied within the limits

Additional taxes.

¹ For lists of orders made under section 85 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² This word "or", in s. 85, was substituted for the words "but not" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 84, in Vol. III of this Code.

³ The word "all", in s. 85 (b), was repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 84, and is omitted.

⁴ The words "Howrah, Patna," in s. 85 (b), were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 84, in Vol. III of this Code.

⁵ This proviso was added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 84, in Vol. III of this Code.

⁶ For lists of orders made under section 86 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part IV.—Of Municipal Taxation.—Sec. 87.)

of the municipality in addition to either of the taxes mentioned in the last preceding section:—

- (a) a tax on carriages, horses and other animals named in the fifth Schedule;
- (b) a fee on the registration of carts;
- (c) tolls on ferries, and (subject to the provisions of sections 158 and 159) tolls upon bridges and metalled roads;
- (d) a water-rate not exceeding ¹ [seven-and-a-half] *per centum* on the annual value of holdings when the houses and lands are situated in streets supplied with water, and not exceeding ¹ [six] *per centum* when the houses and lands are situated in streets not so supplied;
- (e) a lighting-rate not exceeding three *per centum* on such annual value;
- (f) a fee for the cleansing of latrines;

Provided that the taxes mentioned in clauses (d), (e) and (f) shall not be levied in any municipality unless the provisions of Part VII in respect of clause (d), or of Part VIII in respect of clause (e), or of Part IX in respect of clause (f), shall have been extended wholly or partly to such municipality in the manner hereinafter provided.

Of the Tax on Persons².

Assessment
list to be
prepared.

87. When it has been determined that a tax shall be imposed on persons occupying holdings within the municipality, according to their circumstances and property, the Commissioners, after making such inquiries as may be necessary, shall cause to be prepared an assessment list which shall contain the following particulars, and any others which the Commissioners may think proper to include:—

- (a) name of the street or road in which the holding is situated;
- (b) number of the holding on the register;
- (c) name of the person occupying the holding, whether such person be assessed or exempted from assessment;
- (d) description of the holding, and of the property within the municipality, and the profession or business of the person assessed;

¹ The words "seven-and-a-half" and "six", in s. 86 (d), were substituted for "six" and "five" respectively, by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894) s. 88, in Vol. III of this Code.

² As to the imposition of this tax, see s. 85, *ante*, p. 745.

of 1894.]

(Part IV.—Of Municipal Taxation.—Secs. 88-90.)

- (e) amount of annual assessment;
 (f) amount of quarterly instalment;
 (g) if the occupier of the holding is exempted from assessment, a note to that effect.

The tax upon persons shall be payable in quarterly instalments by persons occupying holdings.

Such tax shall not be assessed or levied on any person in respect of the occupation ¹ of any building which is used exclusively as a place of public worship ² [or in respect of the occupation of any public burial or burning ground registered under section 254].

88. Save as is herein otherwise provided, every assessment of the tax upon persons shall take effect from the beginning of the year next following that in which the notice required by section 112 is published, and shall be valid for three years, and until the beginning of the year next after the date on which a new assessment or valuation may be published, or until the assessment and valuation be revised and amended:

Duration of assessment.

Provided that, when this Act is extended to any place, the first assessment may take effect from the beginning of the quarter next following that in which the said notice shall be published.

89. In any municipality in which the tax on persons is imposed, no tax shall be assessed on any person in respect of his occupation of any holding which ³ [contains any building] the property of Government ⁴ [or of a local authority], but a rate not exceeding seven-and-a-half *per centum* may be assessed on the annual value of every such holding, to be ascertained in the manner prescribed by section 101, and such rate shall be payable by Government ⁵ [or the local authority concerned].

Assessment of public buildings.

90. Whenever any tax shall have been assessed on any person in respect of his occupation of two or more holdings, and the aggregate of the amount so assessed upon him shall exceed eighty-four rupees *per annum*, such person may, within fifteen days of the publication of the notice required by section 112, apply to the Commissioners to cancel such assessment, and to substitute for the total amount of tax so assessed upon him, in respect of the said holdings, a rate to be calculated,

Procedure if aggregate amount of rates assessed on any person exceeds eighty-four rupees per annum.

¹ The words "of arable lands, or", in s. 87, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 86, and are omitted.

² These words and figures in square brackets in s. 87 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 86, in Vol. III of this Code.

³ The words "contains any building," in s. 89, were substituted for the word "is" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 87, in Vol. III of this Code.

⁴ The words "or of a local authority," in s. 89, were substituted for the words "is" and added for the purposes of a public building" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 87 (as partially repealed by Ben. Act 6 of 1894), in Vol. III of this Code.

⁵ The words "or the local authority concerned," in s. 89, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 87 (as partially repealed by Ben. Act 6 of 1894), in Vol. III of this Code.

(Part IV.—Of Municipal Taxation.—Secs. 91-96.)

at seven-and-a-half *per centum* on the annual value of such holdings; and the Commissioners shall thereupon substitute such rate; and, for the purpose of calculating the amount of such rate, shall determine the annual value of the said holdings in the manner prescribed by section 101.

Every rate imposed under this section shall be payable by the occupier of the holdings so rated.

Power of
exemption.

91. The Commissioners may exempt from assessment any person who may by them be deemed too poor to pay the tax; but the name of the occupier of every holding shall be included in the assessment-list, whether he be assessed or exempted from assessment.

Power to
apply for
reduction of
assessment in
altered cir-
cumstances.

92. If any person mentioned in the assessment-list shall, at any time after the publication thereof, have ceased to occupy any holding in respect of the occupation of which he has been assessed, or if the means and property in respect of which he has been so assessed shall have been reduced, the Commissioners may on his application exempt him from his assessment, or may revise the same; and such exemption or revision shall take effect from such date as the Commissioners may direct.

Power to alter
assessment.

93. The Commissioners may, at any time after the publication of the notice required by section 112, assess any person who was without authority omitted from the assessment-list, or whose liability to assessment has accrued thereafter, and may enhance any assessment which appears to them to be inadequate, and to have been so made owing to mistake or fraud.

Any assessment or enhancement made under this section shall take effect from the beginning of the quarter next following that in which such assessment or enhancement is made.

Procedure on
change of
occupation.

94. The Commissioners may at any time substitute for any name mentioned in the assessment-list the name of any new occupier of a holding, and may assess the tax on such person, and such person shall be liable to pay such assessment from the date on which his occupation of the holding commenced.

Assessment
on vacant
holdings
when
to cease.

95. If any holding shall become vacant in course of the year, assessment on account of the occupation of such holding shall cease to have effect from the first quarter next following that in which it became vacant.

Of the Rate on the value of Holdings.¹

Commis-
sioners
to determine
the valuation
of holdings.

96. When it has been determined that a rate shall be imposed on the annual value of holdings, the Commissioners, after making such inquiries as may be necessary, shall determine the valuation of all holdings within the municipality as hereinafter provided.

¹ As to the imposition of this rate, see s. 25, ante, p. 746.

of 1884.]

(Part V.—Of Municipal Taxation.—Secs. 97-100.)

97. Save as is herein otherwise provided, such valuation shall be valid for '[five] years from the date on which it first takes effect in the municipality, and until the beginning of the year next after the date on which a new valuation may be made, or until the valuation be revised and amended.

Duration of assessment.

97A. If, within the period prescribed in the last preceding section, the percentage on the valuation of holdings at which the rate is to be levied is altered by the Commissioners under the provisions of section 102, the amount of the rate and the amount of the quarterly instalments thereof payable in each case shall be altered accordingly in the rating list, but the Commissioners shall not thereby be deemed to have made a new or revised assessment-list.

Effect of alteration of percentage.

98. The rate on the value of holdings shall not be assessed or levied on any holding which is used exclusively as a place of public worship, or which is duly registered as a public burial or burning ground under section 251.

Holdings exempted from tax.

¹ [The Commissioners at a meeting may, with the sanction of the Local Government, exempt from assessment any holding used for purposes of public charity.]

Exemption of charitable holdings from assessment.

99. The Commissioners, in order to prepare the valuation-list, may, whenever they think fit, by notice, require the owners or occupiers of all holdings to furnish them with returns of the rent or annual value thereof; and the Commissioners, or any person authorized by them '[in writing] in that behalf, at any time between sunrise and sunset, may enter, inspect and measure any such holding after having given forty-eight hours' previous notice of their intention to the occupier thereof:

What returns may be required for ascertaining annual value.

² [Provided that where an assessor is appointed, such assessor shall not be competent to authorize any other person to enter, inspect and measure any such holding.]

100. Whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required to do so, or knowingly makes a false or incorrect return, shall be liable to a fine not exceeding twenty rupees, and to a further daily fine not exceeding five rupees for each day during which he shall omit to furnish a true and correct return; and whoever hinders, obstructs or prevents any Commissioner, or any person appointed by the Commissioners as aforesaid, from entering, or inspecting, or measuring any such

Penalty for default in furnishing return.

¹ The word "five," in s. 97, was substituted for the word "three" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 38, in Vol. III of this Code.

² Section 97A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 39, in Vol. III of this Code.

³ This paragraph was added to s. 98 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 40, in Vol. III of this Code.

⁴ The words "in writing", in s. 99, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 41, in Vol. III of this Code.

⁵ This proviso was added to s. 99 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 41, in Vol. III of this Code.

(Part IV.—Of Municipal Taxation.—Secs. 101-103.)

holding shall be liable to a fine not exceeding two hundred rupees.

Annual value
of holdings
how to be
ascertained.

101. The gross annual rent at which any holding may be reasonably expected to let shall be deemed to be the annual value thereof, and such value shall accordingly be determined by the Commissioners, and entered in the valuation-list:

Provided that, ¹[except in the Darjeeling Municipality,] if there be on a holding any building or buildings the actual cost of erection of which can be ascertained or estimated, the annual value of such holding shall in no case be deemed to exceed an amount which would be equal to seven-and-a-half *per centum* on such cost, in addition to a reasonable ground-rent for the land comprised in the holding:

Provided also that, where the actual cost so ascertained shall exceed one *lakh* of rupees, the percentage on the annual value to be levied in respect of so much of the cost as is in excess of one *lakh* of rupees shall not exceed one-fourth of the percentage determined by the Commissioners under section 102:

Provided further that in estimating the annual value of a holding under this section, the value of any machinery that may be on such holding shall not be taken into consideration.

Determin-
ation of rate
of tax on
holdings.

102. Subject to the provisions of section 85, the Commissioners, at a meeting to be held before the close of the year next preceding the year to which the rate will apply, shall determine the percentage on the valuation of holdings at which the rate shall be levied, and the percentage so fixed shall remain in force until the order of the Commissioners determining such percentage shall be rescinded, and until the Commissioners at a meeting shall determine some other percentage on the valuation of holdings at which the rate will be levied from the beginning of the next year:

Provided that, when this Act is first extended to any place, the first rate may be levied from the beginning of the quarter next after that in which the percentage has been fixed by the Commissioners at a meeting.

Preparation
of valuation
and rating
list.

103. As soon as possible after the percentage at which the rate is to be levied for the next year shall have been determined under the last preceding section, the Commissioners shall cause to be prepared a valuation and rating list, which shall contain the following particulars, and any others which the Commissioners may think proper to include:—

- (a) name of the street or road in which the holding is situated;
- (b) number of the holding on the register;
- (c) description of the holding;
- (d) annual value of the holding;
- (e) name of owner;

¹ The words "except in the Darjeeling Municipality", in s. 101, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 42, in Vol. III of this Code.

of 1854.]

(Part IV.—Of Municipal Taxation.—Secs. 104-108.)

- (f) amount of rate payable for the year;
- (g) amount of quarterly instalment;
- (h) if the holding is exempted from assessment, a note to that effect.

The rate upon holdings shall be payable in quarterly instalments by the owner of the holding.

104. If any house belongs to one owner, and the land on which it stands and any adjacent land which is usually occupied therewith belongs to another, the Commissioners may value such house and land together and may impose thereon one consolidated rate.

Power to assess upon house consolidated tax for house and land on which it stands.

The total amount of the rates shall be payable by the owner of the house, who shall thereafter be entitled to deduct from the rent which he pays for the land such proportion of the rate so paid by him as is equal to the proportion which such rent bears to the annual value of the holding.

If the owner of the house and the owner of the land do not agree in respect of the proportion of the rate so deducted by the owner of the house, the Commissioners shall, on the application of either party, make an award declaring the amount payable by each, and such award shall be final.

105. If the sum due from the owner of any holding remains unpaid after the notice of demand has been duly served, and such owner be not resident within the municipality, or the place of abode of such owner be unknown, the same may be recovered from the occupier for the time being of such holding, who may deduct, from the next and following payments of his rent, the amount which may be so paid by or recovered from him:

Tax due from non-resident owner may be recovered from occupier and deducted by him from his rent.

Provided that no arrear of rate which has remained due from the owner of any holding for more than one year shall be so recovered from the occupier thereof.

106. Whenever, from the circumstances of the case, the levy of the rate on any holding in the municipality would be productive of excessive hardship to the person liable to pay the same, the Commissioners at a meeting may reduce the amount payable on account of such holding, or may remit the same.

Power of Commissioners in cases of excessive hardship.

107. If the value of any holding shall be diminished from any cause beyond the control of the owner thereof, the owner thereof may apply for reduction of the valuation of the same.

Application for reduction of assessment.

108. The Commissioners may, at any time after the publication of the notice required by section 112, value and rate any holding which was without authority omitted from the valuation and rating list, or which has become liable to valuation and rating after the publication thereof; and may enhance the valuation and rating of any holding which may appear to have been insufficiently valued or rated through mistake, oversight or fraud; and may re-value and re-assess

Power to re-value valuation and assessment.

(Part IV.—Of Municipal Taxation.—Secs. 109-111A.)

any holding the value of which has been increased by additions or alterations to any building thereon.

Any rate imposed or enhancement made under this section shall take effect from the beginning of the quarter next following that in which the rate shall be imposed or enhancement made.

Power to
write assess-
ment-list.

109. The Commissioners may, at any time, substitute for any name mentioned in the valuation and rating-list the name of any person to whom any holding mentioned therein shall have been transferred.

Such person shall be liable to pay the rate payable on such holding from the first day of the quarter next after the date of the transfer.

Remission or
refund on ac-
count of va-
cant holdings.

110. When any holding has been vacant for sixty or more consecutive days during any year, the Commissioners shall remit, and, if the rate has been paid, shall refund, one-half of so much of the rate of that year as may be proportionate to the number of days the said holding has remained unoccupied:

Provided that the owner of such holding, or his agent, has given to the Commissioners notice in writing of the vacancy thereof, and that the application for refund is made within six months from the date on which such notice is delivered at the office of the Commissioners.

The amount of tax to be remitted or refunded shall be calculated from the date of the delivery of such notice.

Penalty.

111. Whoever, being the owner of any holding for which a remission or refund of the rate has been made under the last preceding section, fails to give notice of the re-occupation of such holding within ten days of such re-occupation shall be liable to a fine not exceeding three times the amount of rate payable quarterly on such holding.

*Of General Provisions relating to the Tax on Persons and the
Rate on Holdings and to the Recovery of the same.¹*

Appointment
of assessor of
municipal
taxes.

111A. If at any time it appears to the Local Government, on the report of the Commissioner of the Division, that the assessment in any municipality is insufficient or inequitable, and if the Commissioners have not appointed an assessor under section 46, the Local Government may, by an order in writing, require the Commissioners of such municipality to revise and amend such assessment, or to show cause against such order within a time to be specified therein;

and if the Commissioners fail to comply with such order, or if, in the opinion of the Local Government, the revised and amended assessment is insufficient or inequitable, the Local

¹ As to the imposition of this tax and rate, see s. 86, *infra*, p. 745.

² Section 111A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 43, in Vol. III of this Code.

of 1894].

(Part IV.—Of Municipal Taxation.—Secs. 112-115.)

Government may, by an order in writing, require the Commissioners to appoint an assessor of municipal taxes for such municipality, within a time and for a period to be specified in such order; and such assessor shall exercise all the powers of assessment except under sections 113, 114 and 115, vested by this Act in the Commissioners.

Such order shall fix the pay of the assessor and the cost of his establishment, and such pay and cost shall be paid monthly by the Commissioners.

112. When the assessment-list of the tax upon persons, or the valuation and rating-list of the rate on the annual value of holdings, shall have been prepared or revised, the Chairman shall sign the same, and shall cause it to be deposited in the office of the Commissioners, and shall cause the notice in Form A or the notice in Form B of the third Schedule (as the case may be) to be published in the manner prescribed by section 354.

Publication of notice of assessments.

113. Any person who is dissatisfied with the amount assessed upon him or with the valuation or rating of any holding,

Application for review.

or who disputes his occupation of any holding, or his liability to be assessed or rated,

may apply to the Commissioners to review the amount of assessment, valuation or rating, or to exempt him from the assessment or rate.

¹[When an assessor has been appointed under section 111A, notice of every such application shall be given by the Commissioners to the assessor.]

114. Every application presented under the last preceding section shall be heard and determined by not less than three Commissioners, who shall be appointed in that behalf by the ²[Commissioners at a meeting]. The Commissioners so appointed, after ³[taking such evidence and] making such inquiries as they may deem necessary, may pass such order as they shall think fit in respect of such application.

upon review.

The decision of such Commissioners, or of a majority thereof, in such cases shall be final.

115. Unless good cause shall be shown to the satisfaction of such Commissioners for extending the time allowed, and save as is otherwise expressly provided in this Act, no such application shall be received after the expiration of one month from the date of publication of the notice required by section 112 relating to the list containing the assessment, valuation or rating in respect of which the application is made, or after the expiration of fifteen days from the date of service of the first

Limitation of time for application for review.

¹ This paragraph was added to s. 113 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 44, in Vol. III of this Code.

² The words "Commissioners at a meeting", in s. 114, were substituted for the word "Chairman" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 46, in Vol. III of this Code.

³ The words "taking such evidence and", in s. 114, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 46, in Vol. III of this Code.

(Part IV.—Of Municipal Taxation.—Secs. 116-121.)

notice of demand for payment at the rate in respect of which the application is made, whichever period shall last expire.

Assessment to be questioned only under Act.

116. No objection shall be taken to any assessment or rating ^{in any other manner} than in this Act is provided.

Office hours for payment of taxes.

117. By notification to be posted up in their office, the Commissioners shall declare at what hours of each day (not being a Sunday or other recognized holiday) the office shall be open for the receipt of money and the transaction of business.

Tax payable in advance.

118. The amount due by any person on account of the tax on persons, or the rate on holdings, shall be deemed to be the amount entered in the lists, the notice relating to which is published under section 112, unless the amount entered in such lists is subsequently altered by the Commissioners as provided in this Act; in which case the amount to which the assessment or rating is so altered shall be deemed to be the amount due.

Every instalment of such tax or rate shall be deemed to be due on the first day of the quarter in respect of which such instalment is payable.

Receipts to be given.

119. For all sums paid on account of any tax or rate under this Act a receipt stating the amount and the tax or rate on account of which it is paid shall be given, signed by the tax-collector, or by some other officer authorized by the Commissioners to grant such receipts.

Bill and notice of demand to be presented.

120. At any time within six months after any sum has become due on account of any tax or rate, the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the said sum, which shall contain a statement of the period and of the tax or rate on account of which the charge is made.

If the amount mentioned in such bill be not paid on presentation thereof, a notice of demand in the form marked A in the fourth Schedule, with copy of the bill appended thereto, shall be served on the person liable to pay the same, and such notice of demand may be served at any subsequent time:

Provided that no charge shall be made in respect of the service of such notice.

Such notice shall be signed by the Chairman or an officer authorized in that behalf, and shall be served by a person authorized to receive payment.

If not paid in fifteen days, process of distress may issue.

121. If any person, after service upon him of such bill and notice, shall not, within fifteen days of the service of such notice or from the date of any order made on an application for review under section 114, pay the sum due, either to the Commissioners at their office or to some person authorized by them

¹ The words "nor shall the liability of any person to be assessed or rated be questioned", in s. 116, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 46, and are omitted.

² The words "or by any other authority" were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 46, and are omitted.

of 1884.]

(Part IV.—Of Municipal Taxation.—Secs. 122, 123.)

to receive the money, or show to the Commissioners sufficient cause for not paying the same,

the amount of the arrear due, with costs on the scale shown in the table of fees marked B in the fourth Schedule, may at any time within three months after the date of service of the said notice, or of the order made on an application for review as aforesaid, be levied by distress and sale of any moveable property belonging to the defaulter, except ploughs, plough-cattle, tools or implements of agriculture or trade, wherever found, or of any moveable property belonging to any other person, subject to the same exceptions which may be found within the holding in respect of which such defaulter is liable to such tax or rate :

[Provided that when the holding in respect of which the default is committed is a place of business, and the moveable property distrained is shown to the satisfaction of the Commissioners to have been left there for repairs or safe custody in the ordinary course of business, it shall be released :

Provided also that, if the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress or any sale under the same.]

122. Every warrant of distress and sale under the last preceding section shall be issued by the Commissioners, and shall be in the form marked C in the fourth Schedule.

Distress how
to be made.

Distress shall be made by actual seizure of moveable property, and the officer charged with the execution of the warrant shall be responsible for the due custody thereof.

Such officer shall make an inventory of all moveable property seized under the warrant, and shall give not less than ten days' previous notice of the sale, and of the time and place thereof by beat of drum, in the municipality or ward in which the property is situated, and by serving on the defaulter a notice in the form marked D in the fourth Schedule :

Provided that, if the property is of a perishable nature, it may be sold at once with the consent of the defaulter, or without such consent at any time after the expiry of six hours from the seizure.

123. The officer charged with the execution of the warrant may, under the special order of the Commissioners, between sunrise and sunset break open any outer or inner door or

Officer may
break open
door.

¹ These two provisions were substituted for the original paragraph by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 47, in Vol. III of this Code. The original paragraph ran as follows :—

"If the said property or any part thereof belong to any person other than the defaulter, the defaulter shall be liable to indemnify the owner thereof for any damage he may sustain by reason of such distress, or by reason of any payment he may make to avoid such distress, or any sale under the same."

(Part IV.—Of Municipal Taxation.—Secs. 124-127.)

window of a house, in order to make the distress, if he has reasonable ground for believing that such house contains any movable property belonging to the defaulter, and if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance:

Provided that he shall not enter or break open the door of any room appropriated for the *zan na*, or residence of women, which by the usage of the country is considered private, except after three hours' notice and opportunity given for the retirement of the women.

Sale how to
be conducted.

124. If the sum due be not paid with costs before the time fixed for the sale, or the warrant be not discharged or suspended by the Commissioners, the movable property seized shall be sold by auction, at the time and place specified, in the most public manner possible, and the proceeds shall be applied in discharge of the arrears and costs.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a Court of competent jurisdiction.

Return of
sales.

The tax-collector or other officer authorized in that behalf shall make a return of all such sales to the Commissioners in the form marked E in the fourth Schedule.

Certain
persons
prohibited
from
purchasing at
sales.
Penalty.

125. All officers and servants of the Commissioners, and all *chaukidars*, constables and other officers of police are prohibited from purchasing any property at any such sale.

Whoever (not being a public servant within the meaning of section 21¹ of the Indian Penal Code) contravenes the provisions of this section shall be punished with simple imprisonment for a term which may extend to two months, or with fine, or with both.

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Commissioners
to keep
account of
distresses and
sales.
Sale of prop-
erty beyond
limits of
municipality.

126. The Commissioners shall cause a regular account to be kept of all distresses levied, and sales made, for the recovery of taxes under this Act.

127. If no sufficient² [movable property] belonging to, a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the municipality, the Magistrate may, on the application of the Commissioners, issue his warrant to any officer of his Court for the distress and sale of any [movable] property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any [movable] property belonging to the defaulter within the jurisdiction of

¹ This paragraph was added to s. 125 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 48, in Vol. III of this Code.

² Printed in the General Acts, 1884-87, Ed. 1909, p. 252.

³ These words "movable property", in s. 127, were substituted for the words "goods or chattels" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 49, in Vol. III of this Code.

⁴ This word "movable" in s. 127, was substituted for the word "personal" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 49, in Vol. III of this Code.

of 1884.]

(Part IV.—Of Municipal Taxation.—Secs. 128-134.)

any other Magistrate ¹[exercising jurisdiction within the territories administered by the Lieutenant-Governor of Bengal] and such other Magistrate shall endorse the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant, who shall remit the same to the Commissioners.

128. No distress or sale made under this Act shall ²be deemed unlawful nor shall any party making the same be deemed a trespasser on account of any error, defect or want of form in the bill, notice, summons, warrant of distress, inventory or other proceeding relating thereto.

Distress or sale not unlawful for want of form

129. Instead of proceeding by distress and sale, or in case of failure to realize thereby the whole or any part of any tax, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

Commissioners may bring suits instead of distraining on failure of distress. Irrecoverable taxes.

130. The Commissioners may order to be struck off the books the amount of any tax or rate which may appear to them to be irrecoverable.

Of the Tax on Carriages, Horses and other Animals.³

131. When it has been determined that a tax on carriages, horses and other animals specified in the fifth Schedule shall be imposed, the Commissioners at a meeting shall make an order that every carriage, horse, and every other animals of the kind specified in the said Schedule, which is kept ⁴[or is used in the ordinary course of business] within, or which is let for hire within or without, the municipality, ⁵[and is used in the ordinary course of business] within it, shall pay the tax, and shall cause such order to be published in the manner prescribed by section 354.

Tax on carriages, horses and other animals

Such order shall be published at least one month before the beginning of the half-year in which such tax shall first take effect; and shall specify at what rates, not exceeding the rates given in the said Schedule, such tax shall be levied.

But such tax shall not be imposed on—

- (a) horses or ponies belonging to officers doing regimental duty, at the rate of one animal for each officer;
- (b) animals exempt from any municipal tax under section 25 ⁶of the Indian Volunteers Act, 1869;
- (c) carriages or animals belonging to Government, or to the Commissioners, or for keeping which for the

20 of 1869.

¹ The words "exercising jurisdiction within the territories administered by the Lieutenant-Governor of Bengal" in s. 127, were substituted for the word "whatsoever" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 40, in Vol. III of this Code.

² Now the Presidency of Fort William in Bengal and other territory.

³ As to the imposition of this tax, see s. 84, ante, p. 745.

⁴ The words "or is used in the ordinary course of business" and "and is used in the ordinary course of business," in s. 131, were substituted for the words "or habitually used" and "and habitually used", respectively, by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (7), in Vol. III of this Code.

⁵ Printed in the General Acts, 1868-78. Ed. 1909. v. 96.

(Part IV.—Of Municipal Taxation.—Secs. 132-135.)

execution of their duty an allowance is made by the Government or by the Commissioners to any of their officers;

- (d) animals used by, or exclusively for the purposes of, any regiment;
- (e) horses or ponies used by police officers, at the rate of not more than one for each officer;
- (f) carriages, the wheels of which do not exceed twenty-four inches in diameter;
- (g) carriages or animals kept for sale by any *bond fide* dealer in such carriages or animals, and not used for any other purpose.

Tax so fixed to continue in force until altered.

132. Any order of the Commissioners imposing a tax under the last preceding section shall continue in force until rescinded, and the tax shall be levied at the rates specified in the order published as aforesaid unless and until the Commissioners at a meeting, held not less than fifteen days before the end of the year, make and publish an order specifying any different rates at which the tax shall be payable for the ensuing year.

Licenses how to be obtained.

133. In any municipality in which a tax has been imposed under section 131, the owner of every carriage, horse and other animal specified in the said Schedule shall, within the first month of each half-year, forward to the Commissioners a statement in writing, signed by him, containing a description of the carriages, horses and other animals liable to the tax, for which he is bound to take out a license.

Such owner shall, at the same time, pay to the Commissioners such sum as shall be payable by him for the current half-year for the carriages, horses and other animals specified in such statement, according to the rates specified in any order for the time being in force under the two last preceding sections.

Proportionate tax on carriages, etc., acquired during half-year.

134. If any person acquires possession, at any time after the commencement of any half-year, of any carriage, horse or other animal specified in the Schedule, in respect of which no license has been given for such half-year, he shall forward a statement as above required within one month of the date on which he may have acquired possession thereof and shall pay such amount of the tax as shall bear the same proportion to the whole tax for the half-year as the unexpired portion of the half-year bears to the half-year; and such amount shall be calculated from the date on which such person may have acquired possession as aforesaid.

On payment of tax, Commissioners to give a license.

135. On receiving the amount of the tax due as aforesaid, the Commissioners, or some person authorized by them in that behalf, shall give to the person paying the same a license for the several carriages, horses and other animals for the period in respect of which the amount is received.

Such license shall be for the current half-year and no longer.

of 1894.]

(Part IV.—Of Municipal Taxation.—Secs. 136-141.)

136. Whenever the owner of any carriage, horse or other animal liable to pay the said tax is not resident within the limits of the municipality to the Commissioners of which the tax is due, the person in whose immediate possession the carriage, horse or other animal is for the time being kept shall take out a license for the same.

Carriage, etc., liable to tax, although the owner be absent.

137. Whoever keeps, or is in possession of, any carriage, horse or other animal, without the license required by any of the three last preceding sections, shall be liable to a fine not exceeding three times the amount payable by him in respect of such license, exclusive of the amount so payable.

Penalty.

138. The Commissioners, at their discretion, may compound for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages or animals for hire, for a certain sum to be paid for the carriages or animals so kept by such person, in lieu of the tax at the rates specified in any order made by the Commissioners under sections 131 and 132.

Commissioners may compound with livery stable-keepers.

139. The Commissioners shall, from time to time, cause to be prepared and entered in a book, to be kept by them, and to be open to the inspection of any person interested therein, a list of the persons to whom during the then current half-year a license has been given, and of the carriages, horses and other animals in respect of which they have paid the tax.

List of persons licensed to be prepared.

140. The Commissioners, or any person authorized by them in that behalf, may, at any time between sunrise and sunset, enter and inspect any stable or coach-house, or any place wherein they may have reason to believe that there is any carriage, horse or other animal liable to the tax, for which a license has not been duly taken out.

Power to inspect stable, etc., and to summon persons liable to the payment of the tax.

And the Commissioners may summon any person whom they have reason to believe to be liable to the payment of any such tax, or any servant of such person, and may examine such person or servant as to the number and description of the carriages, horses and other animals in respect of which such person is liable to be taxed.

141. On proof being given to the satisfaction of the Commissioners that a carriage, horse or other animal for which a license has been taken out for any half-year has ceased to be kept or to be used within the municipality during the course of such half-year, the Commissioners shall order a refund of so much of the tax for the half-year as shall bear the same proportion to the whole tax for the half-year as the period during which such carriage, horse or other animal has not been kept or used in the municipality bears to the half-year; but no such refund shall be allowed unless notice be given to the Commissioners within one month of the time when such use of such carriage, horse or other animal ceased, and, except for special cause shown, the Commissioners shall

Refund of tax in certain cases.

(Part IV.—Of Municipal Taxation.—Secs. 141A-141.)

pass no order for refund until after the close of the half-year in respect of which the refund is claimed.

Prohibition
of double fee.

141A. Nothing in sections 131 to 141 shall be deemed to authorize the levy of more than one fee for the same period in respect of any carriage, horse or other animal which is kept or used in more than one municipality * * *.

Meaning of
"used in the
ordinary
course of
business."

141B. A carriage, horse or other animal shall be deemed to be used in the ordinary course of business, within the meaning of section 131, if it is used on business on an average thrice a week.

Of the Registration of Carts.

Registration
and
numbering
of carts.

142. The Commissioners at a meeting may make and publish an order that every cart which is kept [or is used in the ordinary course of business] within or which is let for hire within or without the municipality [and is used in the ordinary course of business] within it shall be registered by the Commissioners with the name and residence of the owner, and shall bear the number of registration in such manner as the said Commissioners shall direct:

Provided always that such order shall be published at least one month before the beginning of the half-year in which such order for registration shall be enforced.

This section shall not apply to—

- (a) carts which are the property of the Government or of the Commissioners;
- (b) carts which are kept without the limits of the municipality, and are only temporarily and casually used within such limits;
- (c) Howrah * * *.

Fee for
registration.

143. The registration of carts under the last preceding section shall be made, and the numbers assigned yearly or half-yearly, upon such days as the Commissioners shall notify and such fee^a as they shall from time to time fix and notify not exceeding four rupees if the registration has effect for a year, and not exceeding two rupees if the registration has effect for half a year, shall be paid for each registration.

Proportionate
payment of
fee.

144. Any person becoming possessed of any cart which has not been registered for the then current period of registration

^a Section 141A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 50, in Vol. III of this Code.

^b The words "or cartmen", in s. 141A, were repealed by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (4), and are omitted.

^c Section 141B was inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 10, in Vol. III of this Code.

^d The words "or is used in the ordinary course of business" and "and is used in the ordinary course of business", in s. 142, were substituted for the words "or habitually used" and "and habitually used", respectively, by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (1), in Vol. III of this Code.

^e The words "to the Suburbs of Calcutta", in s. 142 (c), were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 51, and are omitted.

^f As to the levy of this fee, see also s. 96, ante, p. 745.

of 1884.]

(Part IV.—Of Municipal Taxation.—Secs. 145-147.)

shall register the same within one month from the date on which he may have become possessed thereof, and the Commissioners shall grant registration in any such case on payment of such amount of the fee as shall bear the same proportion to the whole fee for the current period of registration as the unexpired portion of the current period of registration bears to the whole of such period; and such fee shall be calculated from the date on which such person may have become possessed as aforesaid.

145. When the ownership of any registered cart is transferred within any period of registration, it shall be registered anew within one month of the transfer in the name of the person to whom it has been transferred, and a fee not exceeding four annas shall be paid for every such last-mentioned registration. Transfer of ownership.

146. Whoever keeps, or is in possession of, a cart not duly registered as required by any of the three last preceding sections shall be liable to a fine not exceeding three times the amount payable by him in respect of such registration, exclusive of the amount so payable; and whoever, being the owner or driver of any cart, shall fail to affix thereto the registration number as required by section 142 shall be liable to a fine not exceeding five rupees. Penalty.

147. If any person owns or keeps any cart hereinbefore required to be registered without having caused the same to be registered, the Commissioners, or any person authorized by them in that behalf, may seize and detain such cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods), together with the animals drawing the same, and all police officers are required, on the application of the Commissioners, or of any servant of the Commissioners duly authorized in that behalf, to assist in the said seizure. Seizure and sale of unregistered cart.

After such seizure the Commissioners shall forthwith issue a notice in writing that after the expiration of ten days they will sell such vehicle and animals by auction at such place as they may state in the notice; and, if any registration fee, together with the cost arising from such seizure and custody, remains unpaid for ten days after the issue of such notice, the Commissioners may sell the property seized for payment of the said fee, and of all expenses occasioned by such non-payment, seizure, custody and sale.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a Court of competent jurisdiction:

Provided that, if at any time before the sale is concluded, the person whose cart has been seized shall tender to the Commissioners, or to the person authorized by them to sell the cart, the amount of all the expenses incurred and the

(Part IV.—Of Municipal Taxation.—Secs. 147A-149.)

registration fee payable by him, the Commissioners shall forthwith release the cart so seized. .

Notwithstanding anything contained in this section, the surplus of the sale-proceeds of a cart seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any cart which has been seized under this section may be sold for the realization of any such fine.

Prohibition of double fee.

¹**147A.** Nothing in sections 142 to 147 shall be deemed to authorize the levy of more than one fee for the same period in respect of any cart which is ²[used in the ordinary course of business] in more than one municipality * * *.

Apportionment of fees.

³[When carts not kept within any municipality are so used in more than one municipality, the Local Government, on the application of the Commissioners of any such municipality, may, if it thinks fit, apportion between all such municipalities the registration fees paid under this Act in respect of such carts.

Levy of fee when cart registered in more than one municipality.

Where a cart is registered under this Act in more than one municipality, the Commissioners of the municipality within which the cart is kept shall have a right to levy the registration fee in preference to the Commissioners of any other municipality.]

Meaning of "used in the ordinary course of business."

⁴**147B.** A cart shall be deemed to be used in the ordinary course of business, within the meaning of sections 142 and 147A, if it is used on an average twice a week.

Of Tolls on Ferries.

Existing public ferries.

148. The Local Government may, with the consent of the Commissioners, make over⁵ to the Commissioners any existing public ferry within or adjacent to the limits of the municipality, to be administered by them until the Local Government shall otherwise direct.

Every ferry, while so administered, shall be deemed to be a municipal ferry, and the profits derivable therefrom, or such part of the profits as shall be agreed upon between the Local Government and the Commissioners, shall be carried to the credit of the municipal fund.

Other ferries may be declared to be municipal.

149. The Commissioners may also, with the sanction⁷ of the Local Government, declare that any other ferry within, or adjacent to, the limits of the municipality is a municipal ferry,

¹ Section 147A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 52, in Vol. III of this Code.

² The words "used in the ordinary course of business", in s. 147A, were substituted for the words "habitually used" by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (2), in Vol. III of this Code.

³ The words "or cantonment", in s. 147A, were repealed by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (4), and are omitted.

⁴ These paragraphs in square brackets were added to s. 147A by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 9 (3), in Vol. III of this Code.

⁵ Section 147B was inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 11, in Vol. III of this Code.

⁶ For a list of orders made under section 148 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁷ For a list of sanctions given under section 149 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1884.]

(Part IV.—Of Municipal Taxation.—Secs. 150-153.)

and the profits derivable therefrom shall thenceforward be carried to the credit of the Municipal Fund :

Provided that due compensation shall be made by the Commissioners to any person for the loss which he may have sustained in consequence of such ferry being declared to be a municipal ferry.

The amount of compensation due in such cases shall be ascertained and awarded by the magistrate under the provisions of section 4 of Bengal Act 1 of 1866¹ (*to amend certain provisions of Regulation 6 of 1819*), or any similar law for the time being in force.

150. Every municipal ferry shall be maintained by the Commissioners, and they shall do all things necessary to provide for the safety and convenience of travellers, and the safety of property to be conveyed on such ferry.

Duties of Commissioners in regard to such ferries.

151. When it has been determined to impose tolls² on municipal ferries, the Commissioners at a meeting shall make and publish an order specifying the ferries and, with the sanction of the Commissioner of the Division, the rates at which such tolls shall be levied.

Rate of tolls to be established and published.

Such rates may from time to time be varied with the like sanction.

152. No person shall be liable to pay any toll for crossing any river or stream at or near a municipal ferry, unless he avails himself of the means provided by the Commissioners for crossing such river or stream.

When persons crossing river not liable to toll.

153. Every lease of a ferry given by the Commissioners as hereinafter provided shall be liable to be cancelled at once, if it shall appear to the Commissioners at a meeting that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from the Commissioners.

Cancellation of ferry lease etc.

On the cancelment of a lease the Commissioners may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until they can make arrangements for such other boats and appliances as may be necessary, in which case the Commissioners shall pay a fair sum to the owners for the use of the said boats and appliances :

Provided that within a week of taking such possession, the Commissioners shall be bound to give notice to the said lessee of their intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

¹ Ben. Act 1 of 1866 was repealed and re-enacted by the Bengal Ferries Act, 1886 (Ben. Act 1 of 1886)—see now s. 17 of the latter Act, *post* p. 891.

² As to the imposition of tolls, see s. 86, *ante*, p. 746.

(Part IV.—Of Municipal Taxation.—Secs. 154-158.)

Toll must be prepaid.

154. Any collector or lessee of tolls, or his agent, may refuse to convey any person or goods across a municipal ferry until the proper toll has been paid, and may require any person who refuse to pay the toll to leave the boat and to remove his goods from it.

Penalty.

Any person who refuses to leave a municipal ferry boat or to remove his goods therefrom when required to do so under this section shall be liable to a fine not exceeding ten rupees.

Keeping of unauthorized ferry.

155. No person shall keep a ferry-boat for the purpose of plying for hire within a distance of two miles above or below any municipal ferry without the previous sanction,

of the Commissioners, if he plies within the limits of the municipality, of the Magistrate of the district, if without such limits,

or of the Magistrate of the district and the Commissioners, if one of the two banks between which he plies is within, and the other bank is without, such limits.

This section shall not apply to any private ferry which may be in existence at the commencement of this Act.

Penalty.

156. Whoever keeps a ferry-boat contrary to the provisions of the last preceding section shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

Of Tolls on Bridges and Roads.

Existing toll-bars.

157. The Local Government may, with the consent of the Commissioners at a meeting, make over to the Commissioners any existing toll-bar within the limits of the municipality, to be administered by them until the Local Government shall otherwise direct; every toll-bar while so administered shall be deemed to be a municipal toll-bar; and the profits derivable therefrom, or such part thereof as shall be agreed upon between the Local Government and the Commissioners shall be carried to the credit of the municipal fund.

Commissioners may establish toll-bar.

158. The Commissioners at a meeting, with the sanction of the Local Government, may establish a toll-bar and levy tolls¹ on any bridge or metalled road which they may have constructed after the commencement of this Act, or at any place within the municipality adjacent to such bridge or metalled road at which tolls may conveniently be levied on vehicles and animals passing over such bridge or road; and the profits derivable therefrom shall be carried to the credit of the Municipal Fund;

Provided that no such toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering the expenses

¹As to the imposition of tolls, see s. 86, ante, p. 745.

of 1884.]

(Part IV.—Of Municipal Taxation.—Secs. 159-163.)

incurred in constructing such bridge or road and in maintaining such bridge or road in repair for the five years next after the construction thereof, together with interest on such expenses as hereinafter provided.

159. Whenever a toll-bar shall have been established, and tolls shall be levied, as provided in the last preceding section, the Commissioners shall at the end of each year publish, by causing it to be posted up at their office, an abstract account showing—

Commissioners to publish expenses, etc., of toll-bars.

- (1) the amount of expenses incurred in the construction of such bridge or road, and in the maintenance of the same;
- (2) the amount of interest which has accrued due thereon, at the annual rate of six *per centum*, and
- (3) the amount which has been received from the profits of the said toll-bars since its establishment.

And, as soon as such expenses and interest shall have been recovered as aforesaid, such toll-bars shall be removed, and tolls shall no longer be levied on such bridge or road.

160. When it has been determined that tolls shall be levied on any such bridge or road, the Commissioners at a meeting shall make and publish an order, with the sanction of the Commissioner of the Division, specifying rates at which such tolls shall be levied.

Rates of tolls to be established and published.

Such rates may from time to time be varied with the like sanction.

161. Any collector or lessee of tolls may refuse to allow any person to pass through any municipal toll-bar until the proper toll has been paid.

Power of collector or lessee in case of refusal to pay toll. Penalty for refusing to pay or avoiding payment of toll.

162. Whoever, having driven any vehicle or animal (not exempted from toll) through a toll-gate, refuses to pay the toll, or, with intent to evade payment of the toll, fraudulently avoids passing through such toll-gate, shall be liable to a fine not exceeding fifty rupees.

163. If the toll due on any vehicle or animal is not paid on demand, the person authorized to collect the same may seize such vehicle or animal, or any part of its burden of sufficient value to defray the toll, and shall give immediate notice of such seizure to the Commissioners.

In case of non-payment of toll, vehicle, etc., may be seized and sold.

After such seizure the Commissioners shall forthwith issue a notice in writing that, after the expiration of ten days, they will sell the property seized by auction at such place as they may state in the notice; and if any toll, together with the cost arising from such seizure and custody, remain undischarged for ten days after the issue of such notice, the Commissioners may sell the property seized, for discharge of the toll, and of all expenses occasioned by such non-payment, seizure, custody and sale.

(Part IV.—Of Municipal Taxation.—Secs. 164-168.)

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a Court of competent jurisdiction:

Provided that, if at any time before the sale has been concluded, the person whose property has been seized shall tender to the Commissioners, or to the officer appointed by them to sell the property, the amount of all the expenses incurred and of the toll payable, the Commissioners shall forthwith release the property seized.

Notwithstanding anything contained in this section, the surplus of the sale-proceeds of any property seized under this section may be devoted to the payment of any fine imposed under the last preceding section; and any property which has been seized under this section may be sold for the realization of any such fine.

Of General Provisions relating to Tolls on Ferries and Roads.

Lease of ferry or toll-bar.

164. The Commissioners may grant a lease of any municipal ferry or toll-bar for any period not exceeding three years.

Table of tolls to be hung up.

165. A table of tolls legibly written in the vernacular of the district shall be hung up, in some conspicuous position at each end of every municipal ferry, and

in some conspicuous position near every municipal toll-bar, so as to be easily read by all persons required to pay the toll.

Penalty.

166. Whoever, being a toll-collector or lessee of a municipal ferry or toll-bar, neglects to hang up a table of tolls as required by the last preceding section shall be liable to a fine not exceeding fifty rupees, and to a further fine, not exceeding ten rupees, for each day during which the offence is continued after he has been required by a notice in writing to desist from such offence.

Composition in respect of tolls.

167. The Commissioners, or the lessee of any municipal ferry or toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the ordinary toll payable.

Exemptions.

168. No tolls shall be paid for the passage
of * * * Government stores¹ or the persons in charge of them:
or of * * * police officers, or of any public or municipal officer on duty, or of any person in their custody, or of any

¹ The words "of troops on the march or of animals or vehicles employed in the transport of such troops," in s. 168, were repealed by the Indian Tolls (Army) Act, 1901 (2 of 1901), and are omitted.

* The words "military or" were repealed by the Indian Tolls (Army) Act, 1901 (2 of 1901), and are omitted.

* So much of section 168 as relates to any Government stores which are exempted by s. 3 of the Indian Tolls (Army) Act, 1901 (2 of 1901), is repealed by s. 3 of that Act.

of 1864.]

(Part IV.—Of Municipal Taxation.—Secs. 169-172.)

property belonging to them or in their custody, or of any vehicle or animal employed by such persons for the transport of such property ;

or of conservancy carts or other vehicles or animals belonging to the Commissioners or of the persons in charge of them ;

* * * * *

Provided that tolls shall be leviable for conveying such animals¹ over a ferry.

And the Commissioners or their lessees shall not be bound to allow any person or thing not specified above to cross a ferry or to pass a toll-gate without payment of the prescribed toll.

But the Commissioners at a meeting may exempt² any other class of persons or things from payment of the said toll ; and in granting a lease of any ferry or toll-bar may stipulate that any municipal servants and property and any other persons or things shall be allowed to pass without payment of the toll.

169. In all cases of resistance to the person authorized to collect tolls, police officers shall assist when required, and for that purpose shall have the same powers as they have in the exercise of their ordinary police duties.

Police officers
to assist.

170. Whoever, being authorized under this Act to collect tolls, demands or takes any higher tolls than the tolls authorized under this Act, shall be liable to a fine not exceeding fifty rupees, and in default of payment to one month's imprisonment.

Penalty for
taking
unauthorized
tolls.

171. If the Local Government has declared that the provisions of the Canals Act, 1864³, or any other similar law for the time being in force, are applicable to any navigable channel which passes through the limits of a municipality, it may, with the consent of the Commissioners, appoint the Commissioners to collect tolls, as provided in section 8 of the said Act, until the Local Government shall otherwise direct ; and the profits derivable therefrom, or such part thereof as shall be agreed upon between the Local Government and the Commissioners, shall be carried to the credit of the municipal fund.

Commissioners
may be
appointed to
collect tolls in
a navigable
channel.

In such case the Commissioners shall exercise all the powers vested by such Act in the Collector.

172. The Local Government may at any time order that the Commissioners, or any person authorized by them, shall cease to levy any tolls under the last preceding section, and may at any time withdraw such order.

Local Govern-
ment may
order Com-
missioners to
cease levying
tolls.

Ben. Act 5 of
1864

¹ The words " or of any animals, whether belonging to Government or otherwise, which are attached to a regiment or a Military Department, and which pass through a toll-bar," were repealed by the Indian Tolls (Army) Act, 1901 (2 of 1901), and are omitted.

² So much of this proviso as relates to any animals which are exempted by s. 8 of the Indian Tolls (Army) Act, 1901 (2 of 1901), is repealed by s. 8 of that Act.

³ For further exemptions from tolls, see ss. 3 and 4 of the Indian Tolls (Army) Act, 1901 (2 of 1901), in General Acts, 1898-03, Ed. 1909, pp. 509-511.

⁴ Printed ante, page 51.

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 173-175.)

PART V.

MUNICIPAL REGULATIONS WHICH SHALL BE GENERALLY IN FORCE IN ALL MUNICIPALITIES.

General.

Operation of this Part.

173. The provisions of this Part shall be in force in every municipality, unless and until the Local Government shall otherwise direct.

Local Government may order provisions of this Part to be not in force in any municipality.

174. The Local Government may, at any time, make an order directing that all or any of the said provisions shall not be in force in any municipality or in any part thereof; and the provisions mentioned in such order shall cease to be in force in such municipality, or part thereof, from the date specified in such order.

The Local Government may at any time cancel or modify any order made under this section.

Procedure, when owners or occupiers required to execute works by Commissioners.

175. Whenever it is provided in this Part or in Part VI that the Commissioners or the Commissioners at a meeting may require the owners or the occupiers, or the owners and occupiers of any land, to execute any work or to do anything within a specified time, such requisition shall be made, as far as possible, by a notice to be served as provided in sections 356 and 357, on every owner or occupier who is required to execute such work or to do such thing; but, if there be any doubt as to the persons who are owners or occupiers, such requisition may be made by a notification to be posted up on or near the spot at which the work is required to be executed or the thing done, requiring the owners or the occupiers, or the owners and occupiers of any land, to execute such work or to do such thing within a specified time; and in such notification it shall not be necessary to name the owners or occupiers.

Every requisition as aforesaid shall give notice to the persons to whom it is addressed that, if they fail to comply with the requisition or to prefer an objection against such requisition as provided in the next succeeding section, the Commissioners will enter upon the land and cause the required work to be executed, or the required thing to be done; and that in such case the expenses incurred thereby will be recovered from the persons who are required in such requisition to execute such work or do such thing.

¹ In Darjeeling, sections 176 to 182 do not apply in the case of any notice issued under any of the clauses enacted by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), or under any rule or by-law made under any such clause—see s. 6 of that Act, in Vol. III of this Code.

of 1884.]

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 176-179.)

¹176. Any person who is required by a requisition as aforesaid to execute any work or to do anything may, instead of executing the work or doing the thing required, prefer an objection in writing to the Commissioners against such requisition within five days of the service of the notice or posting up of the notification containing the requisition; or, if the time within which he is required to comply with the requisition be less than five days, then within such less time.

Person required to execute any work may prefer objection to the Commissioners.

Except as provided in the next succeeding section such objection shall be heard and disposed of by the Chairman or Vice-Chairman.

¹177. If the objection shall allege that the cost of executing the work or of doing the thing required will exceed three hundred rupees, such objection shall be heard and disposed of by the Commissioners at a meeting; unless the Chairman or Vice-Chairman shall certify that such cost will not exceed three hundred rupees, in which case the objection shall be heard and disposed of by the Chairman or Vice-Chairman:

Procedure if person objecting alleges that work will cost more than three hundred rupees.

Provided that in any case in which the Chairman or Vice-Chairman shall have certified his opinion as aforesaid, and the objection shall in consequence thereof have been heard and disposed of by the Chairman or Vice-Chairman, the person making the objection may, if the requisition made upon him is not withdrawn on the hearing of his objection, pay in the said sum of three hundred rupees to the Commissioners as the cost of executing the work or doing the thing required; whereupon such person shall be relieved of all further liability and obligation, in respect of executing the work or doing the thing required, and in respect of paying the expenses thereof; and the Commissioners themselves shall execute such work or do such thing, and shall exercise all powers necessary therefor.

¹178. The Chairman or Vice-Chairman, or the Commissioners at a meeting, as the case may be, shall, after hearing the objection and making any inquiry which they may deem necessary, record an order withdrawing, modifying or making absolute the requisition against which the objection is preferred; and, if such order does not withdraw the requisition, it shall specify the time within which the requisition shall be carried out, which shall not be less than the shortest time which might have been mentioned under this Act in the original requisition.

Chairman, etc., may make order after hearing objection.

¹179. If the person making such objection be present at the office of the Commissioners, the said order shall be explained to him orally; and, if such order cannot be so explained, notice of such order shall be served as provided

Order to be explained orally.

¹ See foot-note ¹ on page 768, ante.

[Ben. Act 3

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Sers. 180-182A.)

in section 356 on the person making the objection; and such explanation of, or service of, the notice of the said order shall be deemed a requisition duly made under this Act to execute the work or do the thing required.

Power of Commissioners on failure of person to execute work.

¹180. If the person or persons required to execute the work or to do the thing fail, within the time specified in any requisition as aforesaid, to begin to execute such work or to do such thing, and thereafter diligently to continue the same to the satisfaction of the Commissioners until it is completed, the Commissioners or any person authorized by them in that behalf may, after giving forty-eight hours' notice of their intention by a notification to be posted up on or near the spot, enter upon the land and perform all necessary acts for the execution of the work or doing of the thing required; and the expenses thereby incurred shall be paid by the owners or by the occupiers, if such requisition was addressed to the owners or to the occupiers respectively, and by the owners and the occupiers, if such requisition was addressed to the owners and the occupiers.

Commissioners may apportion expenses among owners.

¹181. Whenever any expenses incurred by the Commissioners are to be paid by the owners of any land as provided in the last preceding section, the Commissioners may, if there be more than one owner, apportion the said expenses among such of the owners as are known in such manner as to the Commissioners may seem fit.

And whenever any such expenses are to be paid by the occupiers of any land, as provided in the last preceding section, the Commissioners may, if there be more than one occupier, apportion the said expenses among such of the occupiers as are known in such manner as to the Commissioners may seem fit.

Apportionment among owners and occupiers.

¹182. Whenever any expenses incurred by the Commissioners are to be paid by the owners and occupiers of any land, as provided in section 180, the Commissioners may apportion the said expenses among the said owners and occupiers or such of them as are known in such manner as to the Commissioners may seem fit.

Time for complying with requisition or order, and power to enforce requisition or order in default of person directed.

²182A. (1) When the Commissioners, by written notice, make any requisition or order under any of the clauses enacted by the Darjeeling Municipal Act, 1900,³ or under any rule or by-law made under any such clause, a reasonable period shall be prescribed in such notice for carrying such requisition or order into effect.

Ben. Act 1 of 1900.

¹ See foot-note ¹ on page 768, ante.

² Sections 182A and 182B were inserted for the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 7, in Vol. III of this Code.

³ Printed in Vol. III of this Code.

of 1884.]

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Secs. 182B-184.)

(2) If any such requisition or order or any portion thereof is not complied with within the period so prescribed or any further period allowed by them, the Commissioners may take such measures, or cause such work to be executed or such things to be done, as may, in their opinion, be necessary for giving due effect to such requisition or order; and the expenses thereof shall be paid by the person or by any one of the persons to whom such requisition or order was addressed.

(3) The Commissioners may take any measure, execute any work, or cause anything to be done under this section whether or not the person who has failed to comply with the requisition or order is liable to punishment or has been prosecuted or sentenced to any punishment for such failure.

182B. (1) Any person on whom a notice under section 210B, section 210C, section 244V or section 248A is served, may, at any time before the expiration of the period or further period prescribed under section 182A for carrying into effect the requisition or order made by the notice, appear before the Commissioners and show cause why such requisition or order should not be complied with.

Right to show cause against certain requisitions or orders.

(2) If cause is shown as aforesaid by any such person, the Commissioners shall, after hearing him, either cancel the notice or confirm the same, subject to such modifications (if any) as they may think fit.

183. Whenever any works or any alterations and improvements of which the Commissioners are authorized by this Part or Part VI to require the execution are executed by the occupier on the requisition of the Commissioners, or are executed by the Commissioners, and the cost thereof is recovered from the occupier, the cost thereof may, if the Commissioners shall certify that such cost ought to be borne by the owner, be deducted by such occupier from the next and following payments of his rent due or becoming due to such owner, or may be recovered by him in any Court of competent jurisdiction.

Occupier may recover cost of works executed at his expense from owner.

184. Any owner, or occupier of land may contest his liability to pay any expenses or fees under this Part or Part VI, or may contest the amount which he has been

Liability to pay expenses or fees may be contested in Civil Court.

¹ See foot-note * on page 770, ante.

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Secs. 185-189.)

called upon to pay in a Civil Court of competent jurisdiction:

Provided that the fact of such action having been instituted shall be no bar to the recovery of the said amount, in the manner provided by section 360.

Damages and compensation how to be determined.

185. Where any damages or compensation, other than compensation payable under section 35, are by this Act directed to be paid by the Commissioners, the amount, and, if necessary, the apportionment of the same, shall, in case of dispute, be ascertained and determined by a Civil Court of competent jurisdiction.

Of Sewage, Offensive Matter, Rubbish, Privies and Drains.

Establishments for removal of sewage, offensive matter and rubbish. Hours and mode of removal of offensive matter.

186. The Commissioners shall provide all establishments cattle, carts and implements required¹[by them] for the removal of sewage, offensive matter and rubbish.

187. The Commissioners at a meeting may, from time to time, by an order published as prescribed in section 354, appoint the hours within which it shall be lawful to remove² [sewage and] offensive matter and the manner in which the same shall be removed, and may provide places convenient for the deposit thereof, and may require the occupiers of houses to cause the same to be deposited daily, or at other stated intervals, in such places, and may remove the same at the expense of the occupier from any house if the occupier thereof fails to do so in accordance with this Act.

Mekters must give one month's notice if they leave the service of the Commissioners.

188. Whenever such order shall have been published, no *mekter* or other servant of the Commissioners employed to remove or deal with sewage, offensive matter or rubbish shall withdraw from his duties without the permission of the Commissioners, unless he has given notice in writing not less than one month previously of his intention so to withdraw.

Any *mekter* or other such person who, after the said publication, withdraws from his duties without giving such notice as aforesaid shall be liable to rigorous imprisonment for a term not exceeding one month, and shall forfeit all salary which may be due to him.

Commissioners may appoint hours for placing rubbish on public road.

189. The Commissioners at a meeting may, from time to time, by an order published as prescribed in section 354, appoint the hours within which only every occupier of any house or land may place rubbish on the public road adjacent to his house or land in order that such rubbish may be removed by the Commissioners and the Commissioners may charge such

¹ These words "by them", in s. 186, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 58, in Vol. III of this Code.

² The words "sewage and", in s. 187, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 54, in Vol. III of this Code.

of 1884.]

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 190-193.)

fees as they may think fit in respect of the removal of such rubbish, with the consent of the occupier of any house or land, from such house or land, or in respect of the removal from such public road of any rubbish which has accumulated in the exercise of a trade or business.

190. All drains, privies and cesspools shall be subject to the inspection and control of the Commissioners.

Drains, privies and cesspools under control of Commissioners. Inspection of drains, privies and cesspools.

Inspection of drains, privies and cesspools.

¹191. The Commissioners, or any officer authorized by them in that behalf, may inspect all privies, drains and cesspools at any time between sunrise and sunset, *after six hours' notice in writing* to the occupier of any premises in which such privies, drains or cess-pools are situated, and may, if necessary, cause the ground to be opened where they or he may think fit for the purpose of preventing or removing any nuisance arising from such privies, drains or cesspools; and the expenses thereby incurred shall be paid by the owner or occupier of such premises.

²191. The Commissioners, or any officer authorized by them in that behalf, may inspect all privies, drains and cesspools at any time between sunrise and sunset, *without giving notice* to the occupier of any premises in which such privies, drains or cesspools are situated, and may, if necessary, cause the ground to be opened where they or he may think fit for the purpose of preventing or removing any nuisance arising from such privies, drains or cesspools; and the expenses thereby incurred shall be paid by the owner or occupier of such premises.

192. Whenever the Commissioners are satisfied that the existence of such privy, drain or cesspool is attended with risk of disease to the inhabitants of the neighbourhood, they may direct the use of such disinfectants or deodorants as they shall specify in such privy, drain or cesspool, in such quantities or for such time as they shall think fit.

Commissioners may direct the use of disinfectants or deodorants for such drains, privies, etc., as are in a noxious state.

The Commissioners shall, if necessary, themselves supply such disinfectants or deodorants for such use at cost price, and the expense thereby incurred shall be considered as an arrear of tax, and be recoverable as such from the owner of such privy, drain or cesspool; or the Commissioners may, if they think fit, order that such expense shall be paid from the municipal fund.

193. The Commissioners may provide and maintain, in sufficient numbers and in proper situations, common privies

Common privies.

¹ Section 191 applies in this form to all municipalities in Bengal except Darjeeling. The only difference is the section as applying to municipalities in Darjeeling and elsewhere lies in the words printed in italics.

² Section 191 applies in this form to the Darjeeling Municipality.

³ The words "without giving notice," in s. 191, were substituted for the words "after six hours' notice in writing," for Darjeeling, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 8, in Vol. III of this Code.

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Secs. 194-199.)

and urinals for the separate use of each sex, and shall cause the same to be kept in proper order and to be properly cleansed.

Licensing
of public
necessaries.

194. The Commissioners may license such necessities for public accommodation as they from time to time may think proper.

Power to
require owners
to clear
noxious veg-
etation and to
improve bad
drainage.

195. Whenever any land being private property, or within any private enclosure, appears to the Commissioners, by reason of thick or noxious vegetation or jungle, or inequalities of surface, to afford facilities for the commission of a nuisance, or by want of drainage to be in a state injurious to health or offensive to the neighbourhood, the Commissioners may require the owners or occupiers, or the owners and occupiers, of such land, within fifteen days, to clear and remove such vegetation, or level such surface or drain such land:

Provided that, if for the purpose of effecting any drainage under this section it shall be necessary to acquire any land not being the property of the person who is required to drain his land, or to pay compensation to any other person, the Commissioners shall provide such land and pay such compensation.

All rubbish
collected shall
be the prop-
erty of
Municipal
Commission-
ers.

196. All sewage, rubbish and offensive matter collected by the Commissioners from roads, privies, sewers, cess-pools and other places shall be the property of the Commissioners, who shall have power to sell or otherwise dispose of the same; and the money arising from the sale thereof shall be carried to the credit of the municipal fund.

Sewers,
drains, etc.,
under con-
trol of the
Commission-
ers.

197. All existing public sewers, drains and other conservancy works shall be under the direction and control of the Commissioners, who shall have power to construct any further works of that nature which they may consider necessary.

Of Bathing and Washing Places and Tanks.

All public
streams, etc.,
to be under
direction and
control of
the Commis-
sioners.
Commission-
ers may make
provision for
drinking-
water, bath-
ing-places,
etc.

198. All streams, channels, water-courses, tanks, reservoirs, springs and wells, not being private property, shall, for the purposes of this Act, be under the direction and control of the Commissioners.

199. The Commissioners may, by order published at such places as they may think fit, set apart convenient ¹ [wells], tanks, or ² parts of rivers, streams or channels, not being private property, for the supply of water for drinking and for culinary purposes: and may prohibit therein all bathing, washing of clothes and animals, or other acts calculated to pollute the water set apart for the purposes aforesaid;

and may similarly set apart a sufficient number of the same for the purpose of bathing;

¹ This word "wells", in s. 199, was inserted by the Bengal Municipal (Amendment) Act 1894 (Ben. Act 4 of 1894), s. 55, in Vol. III of this Code.

² See. Omit or.

of 1884.]

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 199A-201.)

and a sufficient number for washing animals and clothes, or for any other purpose connected with the health, cleanliness or comfort of the inhabitants.

¹ [The Commissioners may, by an order published at such places as they may think fit, prohibit in the private portion of any stream or channel used as a part of the public water-supply bathing, washing of clothes or animals or any act likely to pollute the water in the public portion of such stream or channel.]

² 199A. If the Chief Civil Medical Officer of the district certifies that the water in any well, tank or other place situated within a municipality is likely, if used for drinking, to engender or cause the spread of any dangerous disease, the Commissioners may, by public notice, prohibit the removal or use of such water for drinking during a period to be specified in such order.

Prohibition by Commissioners of use of unwholesome water.

³ 200. (1) The Commissioners may require the owner or occupier of any land within eight days, or such longer period as the Commissioners may fix, either to re-excavate or fill up with suitable material, at his option, or to cleanse any well, water-course, private tank or pool therein, and to drain off and remove any waste or stagnant water which may appear to be injurious to health or offensive to the neighbourhood:

Power to require unwholesome tanks or private premises to be cleansed or drained.

Provided that if, for the purpose of effecting any drainage under this section, it shall be necessary to acquire any land not being the property of the person who is required to drain his land or to pay compensation to any other person, the Commissioners shall provide such land and pay such compensation.

(2) If under section 180 the Commissioners execute the work of such re-excavation or filling up with suitable material, they may retain possession of the tank or pool, or the site of such tank or pool, and turn the same to profitable account until the expenses thereby incurred shall have been realized.

Commissioners may retain possession of tank or pool until expenses for re-excavation, etc., are realized.

Obstructions and Encroachments on Roads.

Power to close a road or part of a road for repairs or other public purpose.

⁴ 201. The Commissioners may close temporarily any road or part of a road for the purpose of repairing such road, or for the purpose of

⁵ 201. The Commissioners may close temporarily any public road or part of a public road for the purpose of repairing such road, or for the

Power to close a road or part of a road for repairs or other public purpose.

¹ This paragraph was substituted for the original paragraph by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 55, in Vol. III of this Code.

² Section 199A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 56, in Vol. III of this Code.

³ This section was substituted for the original section 200 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 57, in Vol. III of this Code.

⁴ Section 201 applies in this form to all municipalities in Bengal except Darjeeling.

⁵ Section 201 applies in this form to the Darjeeling Municipality.

The difference in the section as applying to municipalities in Darjeeling and elsewhere lies in the words printed in italics.

⁶ These words "any public road" and "part of a public road" were substituted for the words "any road" and "part of a road", respectively, for Darjeeling, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 9, in Vol. III of this Code.

[Ben. Act 3]

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Sec. 201A.)

constructing any sewer, drain, culvert or bridge, or for any other public purpose:

Provided that the Commissioners so closing any road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road.

Whenever, owing to such repairs or constructions or from any other cause, any road or part of a road shall be in a state which is dangerous to passengers, the Commissioners shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

Absolute closing of public road.

purpose of constructing any sewer, drain, culvert or bridge, or for any other public purpose:

Provided that the Commissioners so closing any public road shall be bound to provide reasonable means of access for persons occupying holdings adjacent to such road.

Whenever, owing to such repairs or constructions or from any other cause any public road or part of a public road shall be in a state which is dangerous to passengers, the Commissioners shall cause sufficient barriers or fences to be erected for the security of life and property, and shall cause such barriers or fences to be sufficiently lighted from sunset to sunrise.

201A. (1) If it appears to the Commissioners that any public road or part thereof—

- (a) threatens the stability or security of any hillside or bank or any immovable property thereon, or,
- (b) in consequence of its condition or its situation with reference to any adjacent hillside or bank cannot be efficiently maintained or repaired except at a cost which, in their opinion, is unreasonable,

the Commissioners may, by public notice, declare such road or part to be absolutely closed:

Provided that the Commissioners shall, before declaring any public road or part thereof to be closed, be bound to provide other reasonably sufficient means of access to holdings

¹ These words "any public road" and "part of a public road" were substituted for the words "any road" and "part of a road", respectively, for Darjeeling, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 9, in Vol. III of this Code.

² Sections 201A to 201G were inserted, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 10, in Vol. III of this Code.

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Secs. 201B-201D.)

adjacent to such road or part, if no such means of access already exist.

(2) From the date of any notice published under sub-section (1) in respect of any public road or part thereof, the Commissioners shall not be bound to maintain or repair such road or part; and the site thereof may be disposed of or otherwise dealt with in any manner the Commissioners may think fit:

Provided that, if the Commissioners determine to sell or to let on lease or otherwise transfer any part of such site which is adjacent to any private land or building, the owner of such land or building shall have a prior right to buy or take on lease such part at a reasonable rate.

201B. All private roads and bridges shall be subject to the inspection and control of the Commissioners.

Control over private roads and bridges.

201C. (1) Every person who intends to construct, re-construct or alter a private road or bridge shall send to the Commissioners an application for permission to execute the work.

Control over construction or alteration of private road or bridge.

(2) Every such application shall be accompanied by the documents or particulars prescribed in this behalf in Schedule A.

(3) Every person applying for permission to construct, re-construct or alter a private road must further mark out on the ground the alignment of the road, for inspection by the Commissioners or an officer authorized by them in that behalf.

(4) The permission referred to in sub-section (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with the rules contained in the said Schedule A.

(5) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

201D. If it appears to the Commissioners that any private road or bridge is so situated or is in such a condition as to threaten the stability or security of any hillside or bank or

Re-construction, etc., of private road or bridge.

¹ See foot-note * on page 776, ante.

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Secs. 201E-201G.)

any immovable property thereon, they may, by written notice, require the owner—

- (a) to re-construct, re-grade, divert, alter or repair such road or bridge, or
- (b) to make a revetment or retaining-wall on either side or both sides of such road, or
- (c) to take such other order with such road or bridge as may be specified in the notice.

Provision or enlargement of waterway on private road.

¹201E. If it appears to the Commissioners that waterway ought to be provided on any private road, or that the waterway provided on any private road ought to be enlarged, they may, by written notice, require the owner of the road—

- (a) to provide and maintain waterway, or
- (b) to enlarge the existing waterway,

as the case may require.

Rules as to construction, etc., of private roads and bridges.

¹201F. Whenever any private road or bridge is to be constructed, re-constructed, re-graded, diverted, altered or repaired, and whenever waterway for any private road is to be provided or enlarged, in pursuance of section 201C, section 201D or section 201E, the work shall be executed in accordance with the rules contained in Schedule A, so far as they are applicable to the particular case.

Power to close private road.

¹201G. If it appears to the Commissioners that the existence of any private road threatens the stability or security of any hillside or bank or any immovable property thereon, they may, by written notice, require the owner to close the road and to take such order with the site thereof as they may consider necessary for the stability or security of such hillside, bank or property and as may be prescribed in the notice :

Provided that no notice shall be issued under this section in respect of any private road which constitutes the only approach to a building, unless, in the opinion of the Commissioners, another road affording a suitable approach to the building can be constructed at reasonable expense.

¹ See foot-note ¹ on page 776, ante.

[1884.]

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Secs. 202-204.)

Ben. Act 8 of
1864.
Ben. Act 6 of
1868.
Ben. Act 5 of
1876.

202. The Commissioners may issue a notice requiring any person to remove any wall which he may have built, or any fence, rail, post or other obstruction or encroachment which he may have erected, in or on any road or open drain, sewer or aqueduct, after the date on which the District Municipal Improvement Act, 1864,¹ or the District Towns Act, 1868¹ or the Bengal Municipal Act, 1876,² as the case may be, took effect in the municipality; or, in case none of the said Acts was in force in the municipality before the commencement of this Act, then after the date on which this Act may have been extended thereto; and, if such person shall fail to comply with such requisition within eight days of the receipt of the same, the Magistrate may, on the application of the Commissioners, order that such obstruction or encroachment be removed; and thereupon the Commissioners may remove any such obstruction or encroachment; and the expenses thereby incurred shall be paid by the person who erected the same.

Removal of
future
obstructions
or
encroachments
in or on road.

No person shall be entitled to compensation in respect of the removal of any wall, fence, rail, post or other obstruction under this section.

203. If the person who built or erected the said wall, fence, rail, post or other obstruction or encroachment is not known or cannot be found, the Commissioners may cause a notice to be posted up in the neighbourhood of the said wall, fence, rail, post or other obstruction or encroachment, requiring any person interested in the same to remove it, and it shall not be necessary to name any person in such requisition;

Proceeds
when person
who erected
obstruction
cannot be
found.

and, if the said wall, fence, rail, post or other obstruction or encroachment be not removed in compliance with the requisition contained in such notice within eight days of the posting up of the same, the Magistrate may, on the application of the Commissioners, order that such obstruction or encroachment be removed; and thereupon the Commissioners may remove any such obstruction or encroachment, and may recover the cost of such removal by sale of the materials so removed.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a Court of competent jurisdiction.

204. The Commissioners may give notice in writing to the owner or occupier of any house requiring him to remove or alter any projection, encroachment or obstruction erected or placed against or in front of such house which may have been so erected or placed after the date on which the District Municipal Improvement Act, 1864,¹ or the District Towns Act, 1868¹ or the Bengal Municipal Act, 1876,² as the case may be, took

Projections
from houses
erected in
future to be
removed.

Ben. Act 8 of
1864.
Ben. Act 6 of
1868.
Ben. Act 5 of
1876.

¹ Ben. Acts 8 of 1864 and 6 of 1868 were repealed by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), and the latter Act has been repealed by this Act—see Sch. VI, part, p. 869.

² The Bengal Act 5 of 1876 has been repealed by this Act—see Sch. VI, part, p. 869.

(Part V.—Municipal Regulations shall be generally in force in all Municipalities.—Secs. 205-207.)

effect in the municipality; or, in case none of the said Acts was in force in the municipality before the commencement of this Act, then after the date on which this Act may have been extended thereto, if the same overhangs the road or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any road;

or obstructs, or projects, or encroaches into or upon any aqueduct, drain or sewer in such road.

And, if such owner or occupier shall fail to comply with such requisition within eight days of the receipt of the same, the Magistrate may, on the application of the Commissioners, order that such projection, encroachment or obstruction be removed or altered, and thereupon the Commissioners may remove or alter such projection, encroachment, or obstruction, and the expenses thereby incurred shall be paid by the owner or occupier so making default.

No person shall be entitled to compensation in respect of the removal of any projection, obstruction or encroachment under this section.

Effect of order made under section 202, 203, 204 or 233.

205. Every order made by the Magistrate under sections 202, 203, 204 or 233 shall be deemed to be an order made by him in the discharge of his judicial duty, and the Commissioners shall be deemed to be persons bound to execute such orders of a Magistrate within the meaning of Act 18 of 1850 (for the protection of Judicial Officers).¹

Houses projecting beyond line of road or drain, when taken down to be set back.

206. Whenever any house, part of which projects beyond the regular line of a road or drain, or beyond the front of the house on either side thereof, shall be burnt down or otherwise destroyed, or shall be taken down in order to be rebuilt or repaired, the Commissioners may require the same to be set back, to, or beyond, the line of the road or drain, or the line of the adjoining house, and may pay reasonable compensation to the owner of such house if any damage shall be thereby sustained.

Fallen house, etc., obstructing road or drain to be removed by owner.

207. Whenever any private house, wall or other erection, or any tree, shall fall down and obstruct any public drain or encumber any public highway, the Commissioners may remove such obstruction or encumbrance at the expense of the owner of the same, or

207. (1) Whenever any building, wall, revetment or other erection, or any part thereof, or any stone, tree, soil or debris from private premises, falls down and obstructs any public road or drain, the Commissioners may cause the obstruction to be removed.

Removal of materials falling upon or into public road or drain

¹ The Judicial Officers' Protection Act, 1850. It is printed in the General Acts, 1854-57, Ed. 1900, p. 63.

² This section 207 applies to all municipalities in Bengal except Darjeeling. The differences in the sections as applying to municipalities in Darjeeling and elsewhere lie in the words printed in italics.

³ These sections 207 and 207A apply to the Darjeeling Municipality. They were substituted for the section 207 printed opposite to them, by the Darjeeling Municipal Act, 1906 (Ben. Act 1 of 1906), s. 11, in Vol. III of this Code.

of 1894.]

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Sec. 207A.)

may require him to remove the same within such time as to the Commissioners shall seem fit.

(2) All stone and trees so removed shall be separately heaped near the spot, and a notice shall be affixed in the vicinity calling upon the persons from whose premises the stone or trees or any of the same has or have fallen to take away the same.

(3) If, in the course of removing any obstruction under sub-section (1), it be found necessary to break up or blast any stone or to cut up any tree, the work shall be executed by the Commissioners; and, if any persons desire, in pursuance of a notice affixed under sub-section (2), to take away any stone or tree which has been so dealt with, they must first pay to the Commissioners the expenses incurred by them under this sub-section.

(4) If such stone or trees be not taken away by the said persons within seventy-two hours after the affixing of the said notice, or within any further period allowed by the Commissioners the same shall become the property of the Commissioners.

207A. If it appears to the Commissioners that any debris which has fallen upon or into any private road or drain ought to be removed they may—

- (a) cause such debris to be removed, at the expense of the owner of the road or drain, or
- (b) by written notice require the said owner to remove the debris.

Removal of debris falling upon or into private road or drain.

¹ See footnote* on page 780, ante.

[Ben. Act 8]

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities,—Secs. 208-210.)

Commissioners may require landholders to trim hedges, etc.

¹208. The Commissioners may require the owner or occupier of any land within three days to trim or prune the hedges thereon bordering on any road, and to cut and trim any trees thereon overhanging any road or tank, or any well used for drinking purposes, or obstructing any road or causing, or likely to cause, damage to any road or any property of the Commissioners, or likely to cause damage to any person using any road, or fouling or likely to foul the water of any well or tank.

Of General Conservancy and Improvement.

Wells, tanks, etc., to be secured.

209. If any well, tank or other excavation, whether on public or private ground, be, for want of sufficient repairs or protection, dangerous to passengers, the Commissioners shall forthwith, if it appears to them to be necessary, cause a temporary hoard or fence to be put up for the protection of passengers, and may require the owners or occupiers, or the owners and occupiers, of the land on which such tank, well or other excavation is situated, within seven days properly to secure or protect such well, tank or other excavation.

Fencing of buildings in a dangerous state.

¹210. If any building, or portion of a building, or structure affixed to a building, be deemed by the Commissioners to be in a ruinous state and dangerous to the inmates, if any, of such building or of any other building or to passers-by, or if any wall or other structure be deemed by the Commissioners to be in a ruinous state and dangerous to passers-by or to any other persons,

they shall forthwith, if it appears to them necessary, cause a proper hoard or fence to be put up for the protection of passers-by or of other persons who may be endangered,

and may require the owner or occupier of the building or the owner or occupier of the land to which such building, wall or other structure is affixed, within seven days, to take down, secure or repair such building, wall or other structure, as the case may require.

¹ This section was substituted for the original s. 208 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 58, in Vol. III of this Code. The original section ran thus :—

“208. The Commissioners may require the owner or occupier of any land within three days to trim or prune the hedges bordering on any road, and to cut and trim any trees overhanging any road and obstructing the same or causing damage thereto.”

The present section applies to all municipalities in Bengal except Darjeeling, having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 22.

² This section was substituted for the original section 210 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 59, in Vol. III of this Code.

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Secs. 210A-210C.)

¹210A. Whenever it appears to the Commissioners that any building, by reason of being unsecured and untenanted, or by reason of having fallen into ruins, affords facilities for the commission of a nuisance or for the harbouring of snakes or other noxious animals, the Commissioners may require the owner of such building or the owner of the land to which such building is attached, to properly secure the same, or to remove or level such ruins, as the case may require.

Commissioners may require owners to pull down ruins.

²210B. If it appears to the Commissioners that any building or portion of a building, or any thing affixed to a building or any wall or structure on any land, is in such a condition as to threaten the stability or security of any hillside or bank or any immovable property thereon, the Commissioners may, by written notice, require the owner of such building or land—

Powers where buildings, etc., threaten the stability of other immovable property.

- (a) to take down such building, portion, thing, wall or structure and remove the materials, or
- (b) to secure or repair such building, portion, thing, wall or structure, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice, and,
- (c) in case (a), also to take such order with the site of such building, wall or structure, for ensuring the stability or security of any hillside or bank or any immovable property thereon, as may be prescribed in the notice.

²210C. If it appears to the Commissioners that the condition or situation of any hillside or bank, being private property, is such as to threaten the safety of any building, and that the safety of such building cannot be ensured by taking action under section 218A, and also that such building threatens the safety of some other building, they may, by written notice, require the owner of such first-mentioned building—

Powers where hillside or bank threatens the safety of buildings.

- (a) to take down the building and remove the materials, or

¹ Section 210 A. was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 60, in Vol. III of this Code.

² Sections 210 B and 210 C were inserted, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act. 1 of 1900), s. 12, in Vol. III of this Code.

[Ben. Act 3]

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Secs. 211-215.)

(b) to secure the building in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice,

and may also, by written notice, require the owner of such other building to secure the same, in such manner as may be prescribed in the notice, or to make a revetment for the support thereof, or to take such other order therewith as may be prescribed in the notice.

Power to enter upon possession of houses so repaired.

211. If the Commissioners shall have caused any repairs to be made to any house or other structure, and if such house or other structure be unoccupied, the Commissioners may enter upon possession of the same, and may retain possession thereof until the sum expended by them on the repairs be paid to them.

Sale of materials of houses, etc., pulled down.

212. The materials of anything which shall have been pulled down or removed under the provisions of section ¹[175 and] 210 may be sold by the Commissioners, and the proceeds of such sale may be applied, so far as the same will extend, to the payment of the expenses incurred.

The surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of the Commissioners or in a court of competent jurisdiction.

Stray dogs to be killed at certain appointed periods.

213. The Commissioners may, by published order, appoint from time to time certain periods within which any dogs without collars or other marks distinguishing them as private property, found straying in the roads or beyond the enclosures of the houses of the owners of such dogs, may be destroyed; and such dogs may be destroyed in accordance with such order.

Commissioners may offer rewards for destruction of noxious animals.

214. The Commissioners at a meeting may offer rewards for the destruction of noxious animals within the limits of a municipality.

Names of roads and numbers of houses.

215. The Commissioners at a meeting may cause a name to be given to any road and to be affixed in such place as they may think fit, and may also cause a number to be affixed to every house; and in like manner may, from time to time, cause such names and numbers to be altered.

¹ The figure and word "175 and" in s. 212, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 61, in Vol. III of this Code.

of 1884.]

(Part V.—*Municipal Regulations which shall be generally in force in all Municipalities.*—Secs. 216, 217.)

Penalties.

216. Any person who in any municipality—

- (1) places or allows his servants to place rubbish on a public road at other than the times appointed by the Commissioners under the provisions of section 189; or
- (2) destroys, pulls down, defaces or alters any name or number put up by the Commissioners under the authority of section 215,

Offences under sections 189 and 215.

shall, for every such offence, be liable to a penalty not exceeding twenty rupees.

217. Any person who, in any municipality,—

- (1) being the occupier of a house in or near a public road keeps, or allows to be kept, for more than twenty-four hours, or for more than such shorter time as may be prescribed by a bye-law, otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil or filth or any noxious or offensive matter, in or upon such house, or in any out-house, yard or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to cleanse the same; or
- (2) keeps any public necessary without a license from the Commissioners under section 194, or, having a license for a public necessary, suffers such necessary to be in a filthy or noxious state, or neglects to employ proper means for cleansing the same; or
- (3) being the owner or occupier of any private drain, privy or cesspool, neglects or refuses, after warning from the Commissioners, to keep the same in a proper state; or
- (4) disobeys an order passed by the Commissioners under the provisions of section 199¹ [or 199 A]; or
- (5) encroaches upon any road, drain, or sewer, aqueduct or watercourse by making any excavation, or by erecting any wall, fence, rail, post or other obstruction,

Occupier not removing filth, etc.

Keeping unlicensed public necessary.

Not keeping private drains, etc., in proper order.

Disobeying order under section 199 or 199 A. Erecting obstruction.

shall, for every such offence, be liable to a penalty not exceeding fifty rupees.

¹ The word and figures "or 199 A." in s. 217 (4), were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 62, in Vol. III of this Code.

(Part V.—Municipal Regulations which shall be generally in force in all Municipalities.—Part VI.—Of Special Regulations.—Secs. 218-220.)

Disobeying requisition under section 202, 204, 206, 207 or 208.

218. Whoever, being an owner or occupier of any house or land within a municipality, fails to comply with a requisition issued by the Commissioners under the provisions of sections 202, 204, 206, 207 or 208, shall be liable, for every such default, to a penalty not exceeding fifty rupees, and to a further penalty, not exceeding ten rupees, for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

Disobeying requisition under section 195, 200, 209, 210 or 210 A.

219. Whoever, being an owner or occupier of any house or land within a municipality, fails to comply with any requisition issued by the Commissioners under the provisions of sections 195, 200, 209, ¹ [210 or 210 A] shall be liable, for every such default, to a penalty not exceeding one hundred rupees, and to a further penalty, not exceeding twenty rupees, for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

Disobeying requisition under section 202, 204 or 206.

218. Whoever, being an owner or occupier of any house or land within a municipality, fails to comply with a requisition issued by the Commissioners under the provisions of sections 202, 204, 206, ² * * * shall be liable, for every such default, to a penalty not exceeding fifty rupees, and to a further penalty, not exceeding ten rupees, for every day during which the default is continued after the expiration of eight days from the date of service on him of such requisition.

PART VI.

OF SPECIAL REGULATIONS.

Operation of Parts VI, VII, VIII, IX and X.

220. No provision contained in this Part, or in Parts VII, VIII, IX or X, shall apply to any municipality, unless and until it has been expressly extended thereto by the Local Government in the manner provided by the next succeeding section :

Saving clause.

³ Provided that, except as is otherwise provided by this Act, in the case of any municipality to which all the provisions

¹ Section 218 applies in this form to all municipalities in Bengal except Darjeeling. The only difference in the section as applying to municipalities in Darjeeling and elsewhere lies in the matter printed in italics.

² Section 218 applies in this form to the Darjeeling Municipality. The reference to sections 206 and 207, in s. 218, was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 63, in Vol. III of this Code.

³ The reference to sections 207 and 208 was repealed, in the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 23, and is here omitted.

⁴ The original reference here was to section 210. A reference to s. 210 A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 64. The figures "210 or 210 A" were substituted by the Amending Act, 1897 (5 of 1897), Sch. II—see Vol. I of this Code.

⁵ This proviso was added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 65 in Vol. III of this Code.

(Part VI.—Of Special Regulations.—Secs. 221-223.)

Ben. Act 5 of 1876.

of any one of the Parts VII, VIII or IX of the Bengal Municipal Act, 1876,¹ may have been extended, and provided that such provisions were still in force in such municipality immediately before the commencement of this Act; all the provisions of the corresponding Part of this Act, namely, of Parts VI, XI or X, respectively, shall be, and shall be deemed to have always been, in force in such municipality without such provisions being expressly extended thereto:

Ben. Act 1 of 1900.

² Provided also that the provisions enacted by the Darjeeling Municipal Act, 1900, shall take effect in the Darjeeling Municipality without being expressly extended thereto.

221. The Commissioners may apply, in pursuance of a resolution passed at a meeting specially convened to consider the question, to the Local Government, to extend to the municipality all or any of the provisions of this Part, or of Parts VII, VIII, IX or X, or to exclude from the operation of the said provisions, or any of them, any place within the municipality.

Local Government may order the provisions of the said Parts to be in force.

And the Local Government may thereupon make an order³ accordingly.

222. Every such order shall be published in the Calcutta Gazette, and the Commissioners shall, within fifteen days of such publication, cause a copy of the same, with a translation thereof into the vernacular of the district, to be posted up at their office, with a notice of the date on which such order shall take effect, and shall cause the same to be published as prescribed in section 354.

Publication of order.

And the said provisions shall come into force in the municipality from the date so fixed:

Provided that the date so fixed shall not be less than fifteen days after the publication under the said section, or more than three months after the publication of the order of the Local Government as aforesaid in the Calcutta Gazette.

223. The Local Government, on a similar application made by the Commissioners, may, at any time, cancel or modify⁴ an order made under section 221, and such cancellation or modification shall be published and shall take effect in the manner prescribed by the last preceding section.

Local Government may cancel or modify order.

¹ The Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), has been repealed by s. 2 of this Act—see Sch. VI, part, p. 868.

² This proviso was added to s. 220, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 15, in Vol. III of this Code.

³ For a list of orders made under section 221 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ For a list of orders made under section 223 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part VI.—Of Special Regulations.—Secs. 223A-224B.)

OF A SURVEY.

Survey of a
municipality.

223 A. The Commissioners at a meeting may order that a survey shall be made of the lands situated in the municipality, and thereupon all the provisions of the Calcutta Survey Act, 1887,¹ shall, so far as may be practicable, apply and be extended to such municipality.

Ben. Act 1 of
1887.

OF PRIVIES, DRAINS AND EXCAVATIONS.

Commissioners
may require
owner or
occupier to
repair drain,
etc.

224. The Commissioners may require the owners or occupiers, or the owners and occupiers, of any land, within fifteen days, to repair and make efficient any drain, privy or cesspool, or to remove any privy or close any cesspool which is situated on such land.

224. The Commissioners may require the owners or occupiers, or the owners and occupiers, of any land, within fifteen days, to repair and make efficient any " " privy or cesspool, or to remove any privy or close any cesspool which is situated on such land.

Commission-
ers may
require owner
or occupier
to repair
privy or cess-
pool, etc.Power to
define limits
of jhoras, etc.

224A. The Local Government may, by notification in the Calcutta Gazette, define, for the purpose of this Act, the limits of any jhora, water-course, channel or natural drainage line.

Control over
construction
or alteration
of private
drains.

224B. (1) Every person who intends to construct, re-construct, alter, stop up or obstruct any private drain shall send to the Commissioners an application for permission to execute the work.

(2) Every such application shall be accompanied by a general description of the drain.

(3) The permission referred to in subsection (1) may be either granted or refused absolutely, or granted subject to any conditions which the Commissioners may think fit to impose in accordance with rules contained in Schedule B.

¹ This heading and s. 223A were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 66, in Vol. III of this Code.

² Printed part, p. 948.

³ Section 224 applies in this form to all municipalities in Bengal except Darjeeling. The only difference in the section as applying to municipalities in Darjeeling and elsewhere lies in the word printed in italics.

⁴ Section 224 applies in this form to the Darjeeling Municipality.

⁵ So much of s. 224 as relates to drains having been repealed, in the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 23, the word "drain" is omitted here.

⁶ Sections 224A, 224B and 224C apply only to the Darjeeling Municipality. They were inserted by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 24, in Vol. III of this Code.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 224C-227.)

(4) No work referred to in sub-section (1) shall be commenced without the written permission of the Commissioners.

¹ 224C. The Commissioners may, by written notice, require the owner of any building or land—

Reconstruction, repair, etc., of private drains.

- (a) to re-construct, enlarge, extend, alter, repair, make efficient, stop up or remove any drain belonging to such building or land, or
- (b) to alter the inclination or direction of any such drain, or
- (c) to provide moveable coverings or gratings for any such drain of such nature as may be specified in the notice, or
- (d) to carry any such drain to such point of outlet or of junction with some other drain as may be specified in the notice.

225. Every person constructing a privy shall have such privy shut out by a sufficient roof and wall or fence from the view of persons passing by, or residing in, the neighbourhood; and the Commissioners may require any owner or occupier of land on which a privy stands to cause the same to be shut out from view as aforesaid within fifteen days.

Privies must be properly enclosed.

226. If any person, without the written consent of the Commissioners first obtained, makes or causes to be made, or alters, or causes to be altered, any drain leading into any of the sewers or drains vested in the Commissioners, the Commissioners may cause such branch drain to be demolished, altered, re-made or otherwise dealt with as they shall think fit; and the expenses thereby incurred shall be paid by the person making or altering such branch drain.

Unauthorized drains leading into public sewers may be demolished.

Commissioners may require owner to drain land.

² 227. If any land, being within one hundred feet of a sewer, drain or other outlet into which such land may, in the opinion of the Commissioners, be drained, is not drained to the satisfaction of the Commissioners, the

³ 227. If any building or land is not drained to the satisfaction of the Commissioners, they may, by written notice, require the owner to provide a drain therefor; at such inclination, and to such point of outlet or of junction

Power to require provision of private drain.

¹ See foot-note * on page 788 ante.

² Section 227 applies in this form to all municipalities in Bengal except Darjeeling.

The differences in the section as applying to Municipalities in Darjeeling and elsewhere lie in the words printed in italics.

³ Section 227 applies in this form to the Darjeeling Municipality. It was substituted for the section printed opposite to it, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1904 (Ben. Act 1 of 1904), s. 18, in Vol. III of this Code.

(Part VI.—Of Special Regulations.—Secs. 228, 229.)

Commissioners may require the owner *within one month to drain the said land into such sewer, drain or outlet.*

Group or block of houses etc., may be drained by a combined operation.

228. If it appear to the Commissioners that a *group or block of houses may be drained or improved more economically or advantageously in combination than separately, and a sewer, drain or other outlet already exists within one hundred feet of any part of such group or block of houses,* the Commissioners may cause such *group or block of houses,* to be so drained and improved;

and the expenses thereby incurred shall be recovered from the owners of such houses, in such proportions as shall to the Commissioners seem fit.

Commissioners may alter any drain, etc., made contrary to their orders.

229. If any *branch drain, privy or cesspool* be constructed contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act, or

with some other drain, as may be specified in the notice.

Private drainage in combination

228. (1) If it appears to the Commissioners that *any buildings or lands belonging to different owners can be drained, or the drainage thereof improved, more economically or advantageously in combination than separately,* the Commissioners may cause such *buildings or lands* to be drained, *or the drainage thereof* to be improved, *in such manner as they may consider suitable.*

(2) *The Commissioners may cause any drain which has been provided or improved under sub-section (1) to be maintained or repaired in such manner as they may consider suitable.*

(3) *All expenses incurred under sub-section (1) or sub-section (2) in connection with the drainage of any buildings or lands shall be paid by the owner of such buildings or lands, in proportion to the benefits derived by them respectively.*

(4) *The said proportion shall be determined by the Commissioners.*

229. If any *privy or cesspool* be constructed contrary to the directions and regulations of the Commissioners, or contrary to the provisions, of this Act, or

Commissioners may alter privy, etc., made contrary to their orders.

¹ Section 228 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the section as applying to municipalities in Darjeeling and elsewhere lie in the words printed in italics.

² Section 228 applies in this form to the Darjeeling Municipality. It was substituted for the section printed opposite to it, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 15, in Vol. III of this Code.

³ Section 229 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the section as applying to municipalities in Darjeeling and elsewhere lie in the words printed in italics.

⁴ Section 229 applies in this form to the Darjeeling Municipality.

⁵ So much of s. 229 as relates to drains having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 25, the words "branch drain" are omitted here.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 229-231.)

if any person, without the consent of the Commissioners, constructs, re-builds or unstops any *branch drain*, privy or cesspool which has been ordered by them to be demolished or stopped up, or not to be made, the Commissioners may cause such amendment or alteration to be made in any such *drain*, privy or cesspool as they think fit, or may cause the same to be removed;

and the expenses thereby incurred shall be paid by the person by whom such *drain*, privy or cesspool was improperly constructed, re-built or unstopped.

if any person without the consent of the Commissioners, constructs, re-builds, or unstops any • • • privy or cesspool, which has been ordered by them to be demolished or stopped up, or not to be made, the Commissioners may cause such amendment or alteration to be made, in any such • • • privy or cesspool as they think fit, or may cause the same to be removed;

and the expenses thereby incurred shall be paid by the person by whom such • • • privy or cesspool was improperly constructed, re-built or unstopped.

229A. Whenever any private drain is to be constructed, re-constructed, enlarged, extended, altered, repaired or otherwise dealt with in pursuance of section 221B, section 221C, section 227 or section 228, the work shall be executed in accordance with the rules contained in Schedule B, so far as they are applicable to the particular case.

Rules as to construction, etc., of private drains.

230. No person shall, without the written permission of the Commissioners, construct or keep any latrine, urinal, cesspool, house-drain or other receptacle for sewage or other offensive matter within fifty feet of any public tank or water-course, or a tank or water-course which the inhabitants of any locality use.

No latrine, etc., to be constructed within fifty feet of tank or water-course.

The Commissioners may require any owner and occupier upon whose land any latrine, urinal, cesspool, house-drain or other receptacle so situated exists, or may hereafter be constructed, to remove the same within eight days.

231. No person shall, without the written permission of the Commissioners, construct a privy with a door or trap-door opening on to any road or drain. The Commissioners may

Construction of privy.

¹ So much of s. 229 as relates to drains having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 28, the words "branch drain" are omitted here.

² So much of s. 229 as relates to drains having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900) s. 28, the word "drain" is omitted here.

³ Section 229A applies only to the Darjeeling Municipality. It was inserted by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 16, in Vol. III of this Code.

(Part VI.—Of Special Regulations.—Secs. 232, 233.)

require any owner or occupier upon whose land any such privy exists to remove the same within eight days.

Power to
prohibit
excavations.

232. The Commissioners at a meeting may, by a general order, prohibit the making of excavations for the purpose of taking earth or stone therefrom, or for the purpose of storing rubbish or offensive matter therein, and the digging of cesspools, tanks or pits without special permission previously obtained from them.

If any such excavation, cesspool, tank, or pit is made after the issue and publication of such order without such special permission, the Commissioners may require the owners and occupiers of the land on which such excavation, cesspool, tank or pit is made, within two weeks, to fill up such excavation.

OF OBSTRUCTIONS AND ENCROACHMENTS ON ROADS.

Removal of
existing
projections
from houses.

233. The Commissioners at a meeting may determine on the removal or alteration, as they shall think fit, of any projection, encroachment or obstruction which may have been erected or placed against, or in front of, any house on any road within the limits of the municipality before the date on which the District Municipal Act, 1864,¹ or the District Towns Act, 1868,² or the Bengal Municipal Act 1876,³ as the case may be, came into force in the municipality, or in case none of the said Acts was in force in the municipality before the commencement of this Act, then before the date on which this Act may have been extended thereto.

Ben. Act 8 of
1864.
Ben. Act 6 of
1868.
Ben. Act 5 of
from houses.

Notice in writing shall be given to the owner or occupier of such house requiring him to remove or alter the said projection, encroachment or obstruction, or to show cause before the Commissioners why he should not be required so to do;

and, if such owner or occupier shall fail to comply with such requisition within thirty days of the receipt of the same, or if after such owner or occupier shall have shown cause against being required to remove or alter the said projection,

¹ Section 622 applies to all municipalities in Bengal except Darjeeling, having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900) s. 25.

² Ben. Acts 8 of 1864 and 6 of 1868 were repealed by the Bengal Municipal Act, 1876 (Ben. Act 5 of 1876), and the latter Act has been repealed by this Act—see Sch. VI, part, p. 226.

³ The Bengal Act 5 of 1876 has been repealed by this Act—see Sch. VI, part, p. 499.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 234-236.)

encroachment or obstruction, the Commissioners shall make an absolute order directing such removal or alteration;

and, if such owner or occupier shall fail to comply with such order within fifteen days of the date of the same, the Magistrate may, on the application of the Commissioners, order such projection, encroachment or obstruction to be removed or altered; and thereupon the Commissioners may remove or alter such projection, encroachment or obstruction.

The Commissioners shall make reasonable compensation to every person who suffers damage by any removal or alteration under this section.

In determining the amount of compensation, the value of the land shall not be taken into consideration.

234. The Commissioners may grant permission to any person, for such period as they may think fit, to deposit any movable property on any road, or to make an excavation in any road, or to enclose the whole or any part of any road, and may charge such fees as they may fix for such permission:

Leave to deposit materials on, or to excavate or close, a road.

Provided that such person undertakes to make due provision for the passage of the public and to erect sufficient fences to protect the public from injury, danger or annoyance, and to light such fences from sunset to sunrise sufficiently for such purpose.

235. Every person intending to build or take down any house, or to alter or repair the outward part of any house, shall, if any public road will be obstructed or rendered inconvenient by means of such work, before beginning the same, cause sufficient hoards or fences to be put up in order to separate the house where such works are being carried on from the road, and shall keep such hoard or fence standing and in good condition, to the satisfaction of the Commissioners, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night:

Hoards to be set up during repairs.

Provided that no person shall put up a hoard or fence without the written permission of the Commissioners, nor shall he keep up the said hoard or fence for a time longer than allowed in the said written permission.

OF BUILDING REGULATIONS.

23 BUILDING REGULATIONS.

Roofs and external walls not to be made of inflammable material.

236. The Commissioners at a meeting may, by an order published in the manner prescribed in section 354,

236. (1) Except with the previous written permission of the Commissioners, external roofs or walls of buildings,

Prohibition of inflammable materials for roofs or external walls.

¹ Section 236 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the section as applying to municipalities in Darjeeling and elsewhere lie in the words printed in italics.

² Section 236 applies in this form to the Darjeeling Municipality.

³ These ss. 236 to 244 and the headings prefixed thereto were substituted for the former ss. 236 to 244, and heading for the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 17, in Vol. III of this Code.

⁴ These words and figures "by an order published in the manner prescribed in section 354" were inserted in this section by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 67, in Vol. III of this Code.

(Part VI.—Of Special Regulations.—Sec. 237.)

direct that within certain limits, to be fixed by them, the external roofs and walls of huts or other buildings which may thereafter be erected, or the roofs or walls of which may thereafter be renewed or repaired, shall not be made of grass, leaves, mats or other inflammable materials.

shall not, after the commencement¹ of the Darjeeling Municipal Act, 1900, be made of grass, leaves, mats, canvas, shingles or other inflammable material.

Ben. Act 1 of 1900.

(2) The Commissioners may, by written notice, require the owner of any building situated in or near a road and contiguous to or adjoining any other building, and having, at the commencement¹ of the Darjeeling Municipal Act, 1900, an external roof or wall made of any such inflammable material as aforesaid, to remove or alter such roof or wall.

Ben. Act 1 of 1900.

(3) Sub-sections (1) and (2) shall not apply to any garden, hut, orchid-house, fernery or other similar structure within a compound, unless in any particular case the Commissioners consider any such structure to be dangerous.

237. (1) Every person who intends to erect or re-erect any house, not being a hut, shall give notice in writing of his intention to the Commissioners, and shall accompany such notice with a general description of the building which he intends to erect, and of the provision he intends to make in respect of

237. After the commencement¹ of the Darjeeling Municipal Act, 1900, no land shall be used as a site for the erection, re-erection or material alteration of a building, and no building shall be erected, re-erected or materially altered, otherwise than in accordance with the provisions of this Act, and

Use of building-sites, and erection, re-erection and material alteration of buildings. Ben. Act 1 of 1900.

Notice of erecting a house not being a hut.

¹ i.e., the 4th March, 1900.

² These ss. 237 to 241 were substituted for the original ss. 237 to 241 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 68, in Vol. III of this Code, and apply to all municipalities in Bengal except Darjeeling.

³ See foot-note * on page 796, ante.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 238, 239.)

drainage and latrine accommodation; and the Commissioners may within six weeks after the receipt of such notice, either refuse to sanction the said building or may sanction the said building either absolutely or subject to any written directions which the Commissioners may deem fit to issue in accordance with the rules, if any, made under sections 241:

Provided that the Commissioners shall make full compensation to the owner for any damage which he may sustain in consequence of the prohibition of the re-erection of any house, or of their requiring any land belonging to him to be added to the street.

(2) Any person giving notice to the Commissioners under this section shall, if required to do so by any rule,¹ forward with his notice a plan and specification of the house, not being a hut, which he intends to erect or re-erect, together with a site-plan of the land, of such character, and with such details as the rule may require; and no notice under this section shall be valid until such plans and specification have been supplied.

Commissioners may order a house not being a hut erected without notice, etc., to be altered or demolished.

²238. (1) Should any person commence to erect or re-erect such house, not being a hut, without giving notice, or without submitting such plans and specification as

any rules, by-laws or orders made under this Act, relating to the use of building-sites or the erection, re-erection or material alteration of buildings, as the case may be.

³ MASONRY BUILDINGS AND FRAMED BUILDINGS.

⁴238. (1) Every person who intends—

Application for approval of site for erection, re-erection or material alteration of a masonry or framed building.

(a) to erect or re-erect a masonry or framed building, or

(b) to materially alter a masonry or framed building in the manner referred to in sub-clause (e), sub-clause (f), sub-clause (g), sub-clause (h), or sub-clause (j) of clause (27) of section 6,

shall send to the Commissioners an application for approval of the site, together with a site-plan of the land.

(2) Every such application and site-plan shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule C.

⁵239. Within thirty days after the receipt of any application made under section 238 for approval of a site, or of any information or further information required under

Approval of site when to be given or refused.

¹ For a list of rules, made for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 2, Pt. VI.

² See foot-note ¹ on page 794, ante.

³ See foot-note ² on page, 795 ante.

(Part VI.—Of Special Regulations.—Secs. 239, 240.)

aforesaid,¹ [or without waiting for the orders of the Commissioners for six weeks from the date of his giving notice in writing under section 237], or in contravention of any legal order of the Commissioners issued within six weeks of receipt of a valid notice under the last preceding section, the Commissioners may, by notice, to be delivered within fifteen days, require the building to be altered or demolished, as they may deem necessary.

(2) Should the Commissioners neglect or omit for six weeks after the receipt of a valid notice under the last preceding section to make and deliver to the person who has given such notice any order in respect thereof, they shall be deemed to have sanctioned the proposed house absolutely:

Provided that no rule under section 241 and no legal order shall be held to have been contravened by anything done in accordance with plans and specifications forwarded to the Commissioners under section 237 and not objected to by them.

²239. Every sanction for the erection or re-erection of any house, not being a hut, which shall be given or deemed to be given by the Commissioners, shall be available for one year from the date on which the notice shall have become valid and complete,

Schedule C, the Commissioners shall, by written order, either—

- (a) approve the site, subject to such conditions or modifications (if any) as may be specified in the order, or
- (b) refuse, on one or more of the grounds mentioned in section 244B, to approve the site.

³240. (1) Every person who intends to erect, re-erect or materially alter a masonry or framed building shall send to the Commissioners an application for permission to execute the work, together with a plan of the building, complete elevations and sections of the work, and a specification of the work.

(2) Every document referred to in sub-section (1) shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule C.

(3) Every application under sub-section (1) for permission—

- (a) to erect or re-erect a masonry or framed building, or
- (b) to materially alter a masonry or framed building, in the manner indicated in clause (b) of section 238,

Application for permission to erect, re-erect or materially alter a masonry or framed building.

Sanction available for one year only.

¹ These words and figures in square brackets in this section 238 were inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896) s. 12, in Vol. III of this Code.

² See foot-note ² on page 794, ante.

³ See foot-note ³ on page 796, ante.

(Part VI.—Of Special Regulations.—Secs. 240-242.)

and no longer; and should the house so sanctioned not have been begun by the person who has obtained such sanction, or some one lawfully claiming under him within such year, it shall not be begun without fresh sanction, but such person as aforesaid may, at any subsequent time, give fresh notice to the Commissioners in the manner hereinbefore prescribed, and thereupon the provisions hereinbefore contained shall apply to such notice.

Definition of expression "erect or re-erect any house, not being a hut."

¹240. The expression "erect or re-erect any house, not being a hut," as used in the two last preceding sections, includes:—

- (a) any material alteration or enlargement of any building;
- (b) such alterations of the internal arrangements of a house as effect an alteration of its drainage or sanitary arrangements, or affect its stability.

Power of the Commissioners to make rules as to mode of construction of houses not being huts.

¹241. (1) The Commissioners at a meeting may from time to time make, repeal or alter, rules² to regulate the erection or re-erection of houses, not being huts, within the municipality in respect of all or any of the following matters:—

- (a) the materials and method of construction to be used for external and party

must be sent either together with the application sent under section 238 or within a period of six months from the issue, under this Act, of the order (if any) approving the site; and, if any such application be sent after the expiration of the said period, it shall not be received unless a fresh application is made under section 238 for approval of the site.

¹241. Permission to erect or re-erect a masonry or framed building, or to materially alter a masonry or framed building in the manner indicated in clause (b) of section 238, shall not be given unless and until the Commissioners have approved the site on an application sent to them under section 238.

Permission to erect, re-erect or materially alter a masonry or framed building not to be given unless and until site approved.

¹242. The erection, re-erection or material alteration of a masonry or framed building shall not be commenced unless and until the Commissioners—

Work not to be commenced unless and until permission granted.

- (a) have granted written permission for the execution of the work on an application sent to them under section 240, or,
- (b) where an appeal or reference has been made to the Engineer appointed under section 351 D—have received orders from the Engineer determining that permission to

¹ See foot-note³ on page 794, ante.

² See foot-note³ on page 798, ante.

³ For a list of rules made under s. 241 (1) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part VI.—Of Special Regulations.—Secs. 243-244A.)

walls, roofs, floors, fire-places and chimneys;

- (b) the provision, position and ventilation of drains, privies and cesspools;
- (c) the free passage or way in front of the house;
- (d) the space to be left about the house to secure free circulation of air and facilitate scavenging, and for the prevention of fire;
- (e) the height and slope of the roof above the uppermost floor upon which human beings are to live or cooking operations are to be carried on;
- (f) the level and width of the foundation, the level of the lowest floor, and the stability of the structure;
- (g) the number and height of the storeys of which the house may consist;
- (h) the means to be provided for egress from the house in case of fire;
- (i) the line of frontage with neighbouring houses if the house abuts on a street.

(2) Rules under this section, not inconsistent with the Act, shall be subject to the sanction of the Local Government, and shall, if sanctioned, be published in such manner as the Local Government may direct, and shall have the force of law.

execute the work should be granted.

243. Within thirty days after the receipt of any application made under section 240 for permission to execute any work, or of any information or further information required under Schedule C, the Commissioners shall, by written order, either—

Permission to execute work when to be granted or refused.

- (a) grant permission to execute the work, subject to such conditions or modifications (if any) as may be specified in the order, or

- (b) refuse, on one or more of the grounds mentioned in section 244C, to grant such permission:

Provided that, where the approval of a site is required by this Act, the said period of thirty days shall not in any case begin to run until the site has been approved under this Act.

244. Whenever the Commissioners refuse to approve a site for the erection, re-erection or material alteration of a masonry or framed building, or to grant permission to erect, re-erect or materially alter such a building, they shall state specifically the grounds for such refusal.

Record of reasons when approval or permission refused.

244A. If, within the period prescribed by section 239 or section 243, as the case may be, the Commissioners have neither given nor refused their approval of a building-site or their permission to execute any work, as the case may be, the Engineer appointed

Reference to appellate Engineer if grant or refusal of approval or permission is delayed.

¹ See foot-note * on page 796, ante.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 242-244B.)

(3) If in and during the erection or re-erection of any house, any rule under this section is contravened, the Commissioners may, by notice to be delivered within fifteen days, require the building to be altered, or, if necessary, demolished, within the space of thirty days, so as to secure conformity to such rule.

(4) This section shall not take effect in a municipality until it has been specially extended¹ thereto by the Local Government at the request of the Commissioners at a meeting.

Commissioners may prohibit letting of unstable or ill-drained house.

242. The Commissioners may prohibit the owner of any house, not being a hut, from letting it for occupation, if in their opinion it is unstable, or if the drainage or latrine accommodation of such house is in their opinion defective, until its stability shall have been secured or such defects in drainage or latrine accommodation shall have been made good to their satisfaction.

Appeals from orders of Commissioners.

242A. (1) Any person aggrieved—

(a) by the prohibition by the Commissioners under section 237 of the erection or re-erection of a house, not being a hut, or

(b) by a notice from the Commissioners

under section 351D shall be bound, on a written reference being made to him by the applicant within six months after the expiration of the said period, to determine forthwith, by written order, whether such approval or permission should be given or not.

244 B. The only grounds on which approval of a site for the erection, re-erection or material alteration of a masonry or framed building may be refused are the following, namely:—

Grounds on which approval of site may be refused.

(1) that the site is not, in the opinion of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351 D) the Engineer, a safe site for the erection, re-erection or alteration of the building;

(2) that the erection, re-erection or alteration of the building upon the site would, in the opinion of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351 D) the

¹ For a list of orders made under s. 241 (4) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI, opposite s. 221 of Ben. Act 3 of 1884.

² This section 242 was substituted for the original section by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 69, in Vol. III of this Code, and applies to all municipalities in Bengal except Darjeeling.

³ This section 242A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 70, in Vol. III of this Code, and applies to all municipalities in Bengal except Darjeeling.

⁴ See foot-note 2 on page 798, ante.

(Part VI—Of Special Regulations.—Secs. 243, 244C.)

under section 238 or sub-section (3) of section 241, requiring the alteration or demolition of a building, or

(c) by any order made by the Commissioners under the powers conferred upon them by section 242,

may appeal within thirty days from the date of such prohibition, notice or order, to the Commissioners; and every such appeal shall be heard and determined by not less than three Commissioners, who shall be appointed in that behalf by the Commissioners at a meeting, and no such prohibition, notice or order shall be liable to be called in question otherwise than by such appeal.

(2) The appellate authority may, for sufficient cause, extend the period allowed by sub-section (1) of this section for appeal.

(3) The order of the appellate authority confirming, setting aside or modifying the prohibition, notice or order appealed from shall be final:

Provided that the prohibition, notice or order shall not be modified or set aside until the appellant and the Commissioners have had reasonable opportunity of being heard.

243. It shall not be lawful for any person to erect a hut, or any range or block of huts or sheds, or to add any hut or shed to any range or

Engineer, threaten the stability or security of some hillside or bank or some immovable property thereon;

(3) that any particulars comprised in the site-plan would contravene some specified provision of this Act or some specified rule, by-law or order made hereunder;

(4) that the application for such approval, or the site-plan, does not contain the particulars or is not prepared in the manner prescribed in Schedule C; or

(5) that any information required under the said Schedule has not been duly furnished.

244 C. The only grounds on which permission to erect, re-erect or materially alter a masonry or framed building may be refused are the following, namely:—

(1) that, having regard to the site, to the plan of the building, to the elevations, sections and specification of the work, and to the information and documents (if any) furnished to the Commissioners, the building, in the opinion of the

Grounds on which permission to execute works may be refused.

Direction of new huts to be under the control of the Commissioners.

¹ This section 243 applies to all municipalities in Bengal except Darjeeling.
² See foot-note * on page 798, ante.

of 1894.]

(Part VI.—Of Special Regulations.—Sec. 244)

block already existing, or to enlarge any existing hut, without ¹[one month's] previous notice to the Commissioners; and the Commissioners may require such huts or sheds to be built so that they may stand in regular lines, with a free passage or way in front of ²[each line] and between ³[every two lines] of such width as they may think proper for ventilation and to facilitate scavenging, and with such number of privies, and with such means of drainage, as to them may seem necessary, and at such a level as will admit of such drainage, and with a plinth at least two feet above the level of the nearest street.

Power to direct removal of huts built without notice.

244. If any such huts or sheds be built without giving such notice to the Commissioners, or otherwise than as required by the Commissioners, the Commissioners may require the owners of the land on which such huts and sheds are built, and the occupiers of such huts and sheds, to take down and remove the same within one month, or to effect such alterations as they may deem necessary.

Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351 D) the Engineer,—

- (a) would not be safe for human habitation, or
- (b) would threaten the stability or security of some hillside or bank or some immovable property thereon;
- (2) that the work, or any of the particulars comprised in the building-plan, elevations, sections or specification, would contravene some specified provision of this Act or some specified rule, by-law or order made hereunder;
- (3) that the application* for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule C; or
- (4) that any information required under the said Schedule has not been duly furnished.

¹ These words "one month's", in this s. 244, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 71, in Vol. III of this Code.

² These words "each line", in this s. 244, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 71, in Vol. III of this Code.

³ These words "every two lines", in this s. 244, were substituted for the words "each line" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 71, in Vol. III of this Code.

* This section 244 applies to all municipalities in Bengal except Darjeeling.

(Part. VI. *Of Special Regulations.*—Secs. 244 D-244 G.)

Lapse of
permission if
not acted upon
within six
months.

244 D. (1) If the erection or re-erection of any masonry or framed building, or the material alteration of any such building in the manner indicated in clause (b) of section 238, is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until fresh applications have been made under sections 238 and 240 and fresh approval and permission have been given under this Act.

(2) If any other material alteration of a masonry or framed building is not commenced within six months after the date on which permission was given to execute the work, the work shall not be commenced until a fresh application has been made under section 240 and a fresh permission granted under this Act.

Notice before
commencing
building-work,
and inspection
of site.

244 E. (1) When any site, after having been approved under this Act, has been prepared for building-work, the owner of the building shall, not less than three days before building-work is commenced, send to the Commissioners a written notice specifying the date on which it is proposed to commence such work.

(2) The Commissioners, or the Municipal Engineer, if authorized by them in that behalf, may thereupon inspect the site; and, if it appears to the Commissioners that the site is in such a condition as to render the building unsafe, or that the proposed work would threaten the stability or security of any hillside or bank or any immovable property thereon, they may, by written order, withdraw their permission to execute the work, and may, if they think fit, by a like order grant a fresh permission subject to such conditions for ensuring safety as they may consider necessary.

Notice after
completion of
building-work.

244 F. Within fifteen days after the erection, re-erection or material alteration of any masonry or framed building has been completed, the owner shall send to the Commissioners a written notice of the fact.

Inspection of
building.

244 G. The Commissioners, or any officer authorized by them in that behalf, may, at any time during the erection, re-erection or material alteration of any masonry or framed building,

¹ See footnote * on page 798, ante.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 244H-244K.)

or within one month after the receipt of the notice sent under section 244 F with respect to any building, inspect such building, without giving previous notice of the intention so to do.

¹ 244 H. (1) If, when any such inspection is made, the Commissioners find that the building is being or has been constructed—

Powers on inspecting building.

- (a) otherwise than in accordance with the plans approved under this Act, or
- (b) in such a way as to contravene any of the provisions of this Act or any rule, by-law or order made hereunder,

they may, by written notice, require the owner of the building, either—

- (i) to make such alterations as may be specified in the notice with the object of bringing the work into conformity with the said plans or provisions, or
- (ii) to appear before them and show cause why such alterations should not be made.

(2) If such owner does not appear and show cause as aforesaid, he shall be bound to make the alterations specified in such notice.

(3) If such owner appears and shows cause as aforesaid, the Commissioners shall, after hearing him, cancel the notice issued under sub-section (1) or confirm the same, subject to such modifications (if any) as they may think fit.

HUTS.

¹ 244 J. (1) Every person who intends to erect, re-erect or materially alter a hut shall send to the Commissioners an application for permission to execute the work.

Application for permission to erect, re-erect or materially alter a hut.

(2) Every such application shall contain the particulars and be prepared in the manner prescribed in this behalf in Schedule C.

¹ 244 K. The erection, re-erection or material alteration of a hut shall not be commenced, unless and until the Commissioners—

Work not to be commenced unless and until permission given.

- (a) have granted written permission for the execution of the work on an

¹ See footnote * on page 798, ante.

(Part) VI. ¹Of Special Regulations.—Secs. 244 L-244-O.)

application sent to them under section 244 J, or

- (b) where an appeal or reference has been made to the Engineer appointed under section 351 D, have received orders from the Engineer determining that permission to execute the work should be granted.

Permission to execute work when to be given or refused.

244 L. Within fourteen days after the receipt of any application made under section 244 J for permission to erect, re-erect or materially alter a hut, or of any information or further information required under Schedule C, the Commissioners shall, by written order, either—

- (a) grant such permission, subject to such conditions or modifications (if any) as may be specified in the order, or
(b) refuse, on one or more of the grounds mentioned in section 244 O, to grant such permission.

Record of reasons when permission refused.

244 M. Whenever the Commissioners refuse to grant such permission as aforesaid, they shall state specifically the grounds for such refusal.

Reference to appellate Engineer, if grant or refusal of permission delayed.

244 N. If, within the period prescribed by section 244 L, the Commissioners have neither granted nor refused permission to erect, re-erect or materially alter a hut, the Engineer appointed under section 351 D shall be bound, on a written reference being made to him by the applicant within six months after the expiration of the said period, to determine forthwith, by written order, whether such permission should be granted or not.

Grounds on which permission to erect, re-erect or materially alter a hut may be refused.

244-O. The only grounds on which permission to erect, re-erect or materially alter a hut may be refused are the following, namely:—

- (1) in the case of erection or re-erection, or of any material alteration of the kind indicated in clause (b) of section 238, that the site is, in the opinion of the Commissioners, or (where an

¹ See foot-note * on page 798, ante.

(Part VI.—Of Special Regulations.—Secs. 244 P, 244 Q.)

appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, an unsafe site for a hut;

- (2) that the work would, in the opinion of the Commissioners or (where an appeal or reference has been made to the Engineer appointed under section 351D) the Engineer, threaten the stability or security of some hillside or bank or some immovable property thereon;
- (3) that the work would contravene some specified provision of this Act or some specified rule, by-law or order made hereunder;
- (4) that the application for such permission does not contain the particulars or is not prepared in the manner prescribed in Schedule C; or
- (5) that any information required under the said Schedule has not been duly furnished.

244P. If the erection, re-erection or material alteration of any hut is not commenced within six months after the date on which permission was granted to execute the work, the work shall not be commenced until a fresh application has been made and a fresh permission granted under this Act.

Lease of permission if not acted upon within six months.

244Q. (1) If any site be specially prepared for erecting, re-erecting or materially altering a hut in pursuance of any permission granted under this Act, the owner of the hut shall, not less than three days before building-work is commenced, send to the Commissioners a written notice specifying the date on which it is proposed to commence such work.

Notice before commencing building-work, and inspections.

(2) The Commissioners or the Municipal Engineer, if authorized by them in that behalf, may thereupon inspect the site, and, if it appears to the Commissioners that the site is in such a condition as to render the hut unsafe, or that the proposed work would threaten the stability or security of any hillside or bank or any immovable property thereon, they may,

¹ See foot-note * on page 793, ante.

(Part VI.—Of Special Regulations.—Secs. 242 R, 244 S.)

by written order, withdraw their permission to execute the work, and may, if they think fit, by a like order, grant a fresh permission subject to such conditions for ensuring safety as they may consider necessary.

EXEMPTIONS.

Exemptions.

244 R. The following buildings shall be exempted from the operation of sections 240 to 244 Q, except in so far as those sections relate to sites, that is to say—

- (a) any building erected and used, or intended to be erected and used, exclusively for the purpose of a plant-house, summer-house (not being a dwelling-house), poultry-house or aviary, provided the building be wholly detached from, and situated at a distance of at least ten feet from, the nearest adjacent building; and
- (b) any building of a temporary character erected or intended to be erected by, or with the sanction of, the Commissioners for use solely as a hospital for the reception and treatment of persons suffering from any infectious or contagious disease.

DEMOLITION, ALTERATION AND STOPPING OF WORK.

Demolition or alteration of work unlawfully commenced, carried on or completed.

244 S. If the Commissioners are satisfied—

(1) that any work referred to in section 201 C, sub-section (1), or section 224 B, sub-section (1), or the erection, re-erection or material alteration, of any building—

- (a) has been commenced without obtaining the permission of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351 D) without waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or

¹ See foot-note * on page 798, *supra*.

(Part VI.—Of Special Regulations—Sec. 244 T.)

- (b) is being carried on or has been completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or
- (c) is being carried on or has been completed after such permission has been withdrawn, or
- (d) is being carried on or has been completed in breach of any provision contained in this Act or in any rules or by-laws made hereunder, or of any condition, modification, direction or requisition lawfully imposed, made or given under this Act or such rules or by-laws, or

(2) that any alterations required by any notice issued under section 244H have not been duly made,

the Commissioners may apply to the Magistrate, and such Magistrate may make an order—

- (i) directing that the work done, or so much of the same as has been unlawfully executed, be demolished by the owner or altered by him to the satisfaction of the Commissioners, as the case may require, or
- (ii) directing that the work done, or so much of the same as has been unlawfully executed, be demolished or altered by the Commissioners at the expense of the owner:

Provided that the Magistrate shall not make any such order without giving the owner full opportunity of adducing evidence and of being heard in defence.

¹**244T.** (1) In any case in which any work referred to in section 244S has been unlawfully commenced or is being unlawfully carried on, the Commissioners may, by written notice, require the person carrying on the work to stop the same pending the decision of the Magistrate on an application made to him under that section.

Power to stop progress of work unlawfully commenced or carried on.

¹ See foot-note ² on page 798, ante.

(Part VI.—Of Special Regulations.—Secs. 244U-244X.)

(2) If any work be carried on upon any premises in contravention of a notice issued under sub-section (1), any person directing of carrying on such work may, under the orders of the Commissioners, be removed from the premises by any police officer.

Demolition
and fine
cumulative.

¹244U. When any person is liable to be directed to demolish work and to pay a fine under this Act, both those directions may be given at the discretion of the Magistrate.

CONTROL OVER OCCUPATION OF BUILDINGS.

Power to
prohibit
occupation of
unsafe or
insanitary
building.

¹244V. (1) If it appears to the Commissioners that any building or the site thereof is, in consequence of its condition or of its situation with reference to any hillside or bank, unsafe,

they may, by written notice, prohibit the owner or any other person from occupying or continuing to occupy the building or from permitting it to be occupied until the building or the site, as the case may be, is rendered safe to the satisfaction of the Commissioners.

(2) If it appears to the Commissioners that the drainage of, or the latrine accommodation provided for, any masonry or framed building is defective,

they may, by written notice, prohibit the owner from letting the building for occupation until the defects have been remedied to their satisfaction.

Power to
remove
persons
occupying
unsafe
building

¹244W. If any person occupies or continues to occupy any building in contravention of any notice issued under sub-section (1) of section 244V, he may, under the orders of the Commissioners, be removed from the building by any police-officer.

Prohibition
of use of unfit
building for
human
habitation.

¹244X. (1) If, for any reason, any building intended for or used as a dwelling-place appears to the Commissioners to be unfit for human habitation, they may apply to the Magistrate to prohibit the further use of such building for such purpose; and the Magistrate may, by written order, make a prohibition as aforesaid

¹ See foot-note * on page 798, ante.

of 1884.]

(Part VI.—Of Special Regulations.—Sec. 244Y.)

or may pass such other order as he may deem just and proper :

Provided that the Magistrate shall not make any order under this sub-section without giving the owner and occupier of the building full opportunity of adducing evidence and of being heard in defence.

(2) When any such prohibition has been made, no owner or occupier of such building shall use the same or suffer it to be used for human habitation until the Commissioners certify in writing that the causes rendering it unfit for human habitation have been removed to their satisfaction, or the Magistrate, by written order, withdraws the prohibition aforesaid.

¹ **244Y.** (1) If it appears to the Commissioners that any dwelling-house, or any hut which is used as a dwelling-place, or any room in any such house or hut, is so overcrowded as to endanger the health of the inmates thereof, they may apply to the Magistrate to abate such overcrowding;

Abatement of
overcrowding
in dwelling-
house or
dwelling-
place.

and the Magistrate may, by written order, require the owner of the building or room, within a reasonable time, to be prescribed in the said order, to abate such overcrowding by reducing the number of lodgers, tenants or other inmates of the building or room,

or may pass such other order as he may deem just and proper :

Provided that the Magistrate shall not make any order under this sub-section without giving the owner and occupier of the building or room full opportunity of adducing evidence and of being heard in defence.

(2) The Commissioners may, by written order, declare what amount of superficial and cubic space shall be deemed, for the purposes of sub-section (1), to be necessary for each occupant of a building or room.

(3) If the owner of any building or room referred to in sub-section (1) has sub-let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building or room.

¹ See foot-note * on page 798, ante.

(Part VI.—Of Special Regulations.—Secs. 244Z, 245.)

(4) It shall be incumbent on every tenant, lodger or other inmate of a building or room to vacate on being required by the owner so to do in pursuance of any requisition made under sub-section (1).

ROOF-GUTTERS AND DOWN-PIPES OR
PLATFORMS.

Provision, etc.,
of roof-
gutters and
down pipes
or masonry
platforms.

¹244Z. (1) The Commissioners may, by written notice, require the owner or occupier of any building—

- (a) to provide and maintain a sufficient number of suitable roof-gutters and down-pipes or masonry platforms for carrying water from the roof of the building into such drains as may be specified in the notice, or
- (b) to renew, alter, repair or remove any such gutters, pipes or platforms already provided for the building.

(2) The said gutters must be of such dimensions, and have such slope, and the said pipes must be of such dimensions, and the bends in such pipes must be made at such angles, as may be prescribed by rules² made by the Commissioners at a meeting.

OF SANITARY MEASURES WITH REGARD TO BLOCKS
OF HUTS.

Power of
Commissioners
as to inspec-
tion of hut.

245. Whenever the Commissioners at a meeting are satisfied, from inspection, or by report of competent persons, that any existing block of huts within the municipality is, by reason of the manner in which the huts are constructed or crowded together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants of the neighbourhood, they may cause the locality to be inspected by two medical officers, who shall make a report in writing on the sanitary condition of the said block of huts; and shall specify, if necessary, in the said report, the huts which should be removed, the roads, drains and sewers which should be constructed, and the low lands which should be filled up, with a view to the removal of the said risk of disease.

¹ See foot-note * on page 792, *ante*.

² For rules made under s. 244Z (2), see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 246-248A.)

246. On receipt of the said report, the Commissioners at a meeting may require the owners or occupiers of the huts, or, at the option of the Commissioners, the owner of the land on which such huts are built, to carry out and execute, within a reasonable time to be fixed by the Commissioners for such purpose, all or any of the works specified in the aforesaid report or any portion thereof respectively, and, if such owner, owners or occupiers shall fail to comply with such requisition, the Commissioners themselves may execute all or any of such works.

On receipt of report, Commissioners may cause notice to be served.

247. The Commissioners at a meeting may order that any expenses payable in respect of any work done by them in consequence of the failure of the owners or occupiers to execute such work when required to do so under the last preceding section shall be recovered by instalments from the person liable to pay the same; or, if it should appear to them that the said person is unable by reason of poverty to pay the same, may order the same, or any portion thereof, to be paid out of the municipal fund.

Expenses may be recovered by instalments or remitted in case of poverty.

248. If any of the said huts be pulled down, the Commissioners shall cause the materials of each hut to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut, or, if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioners, until the person interested therein shall obtain the order of a Civil Court of competent jurisdiction for the payment of the same.

Sale of huts.

¹ REVETTING, TURFING AND SLOPING.

¹248A. If it appears to the Commissioners that the condition or the situation of any land, being private property, is such as to threaten the stability or security of any hillside or bank or any immovable property thereon, the Commissioners may, by written notice, require the owner of the land to do all or any of the following things, namely:—

Power required for revetting, turfing or sloping

- (a) to construct and maintain a revetment, retaining-wall or toe-wall upon any part of the land;
- (b) to re-construct, enlarge, strengthen, alter or repair any revetment, retaining-wall or toe-wall already standing on the land;
- (c) to turf the land or any portion thereof;
- (d) to slope the land or any portion thereof.

¹ This heading and sections 248A to 248E were inserted for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 18, in Vol. III of this Code.

(Part VI.—Of Special Regulations.—Secs. 248B-248E.)

Execution of work where owners of adjacent property would be benefited.

248B. If any owner to whom a notice is issued under section 248A represents to the Commissioners, within fifteen days after the service of the notice, that the work required by the notice will directly and substantially benefit the owners of any adjacent buildings or land,

the Commissioners may, after hearing all the owners concerned, themselves cause the said work to be executed :

and the expenses thereby incurred shall be recovered from any or all of such owners, in such proportions as the Commissioners may direct.

Power to execute works in combination.

248C. If it appears to the Commissioners that buildings or lands belonging to two or more owners can be protected by the execution of works of the nature referred to in section 248A, more economically or advantageously in combination than separately,

the Commissioners may themselves cause such works or any of them to be executed, maintained and kept in repair;

and the expenses thereby incurred shall be recovered from the said owners, in such proportions as the Commissioners may direct.

Power to execute works where public road, drain, revetment or retaining wall is affected.

248D. Notwithstanding anything contained in section 248A, the Commissioners may at any time themselves cause any revetment, retaining-wall or toe-wall to be constructed, re-constructed, enlarged, strengthened, altered or repaired on any private land immediately abutting upon any public road, drain, revetment or retaining-wall;

and the expenses thereby incurred shall be paid by the Commissioners and the owner of such land in such proportions as the Commissioners may direct.

Rules as to revetting, turving and sloping.

248E. Whenever any revetment, retaining-wall or toe-wall is to be constructed, re-constructed, enlarged, strengthened, altered or repaired, or any land is to be turfed, or sloped in pursuance of section 201D, section 210B, section 210C, section 248A, section 248B, section 248C, or section 248D, the work shall be executed in accordance with the rules contained in Schedule D, so far as they are applicable to the particular case.

¹ See foot-note ¹ on page 811, ante.

of 1884.]

(Part VI—Of Special Regulations.—Secs. 249-251.)

OF THE REGULATION OF THE SALE OF FOOD, DRINK
AND DRUGS.¹

249. Every owner, or occupier, or farmer, of any place for the sale of meat, poultry, fish or vegetables, or of any slaughter-house, within the limits of a municipality, shall cause such drains to be made therein as shall be considered sufficient by the Commissioners, and (if required so to do by the Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided, sufficient for keeping such place or slaughter-house in a clean and wholesome state.

Markets, slaughter-houses, etc., to be properly drained.

250. Any Magistrate, on the application of the Commissioners or any of their officers setting forth that there is just cause to believe that any article which has been rendered or has become noxious or unfit for use as food or drink for man, is in the possession of any person for the purpose of being sold or offered or exposed for sale, within the limits of a municipality as food or drink for man, may grant a warrant to enter upon the premises of such person, and to search for and seize such article.

Sale of "unwholesome food or drink."

And, if it appear to the said Magistrate that the same is noxious or unfit for such use, he shall order it to be forfeited and disposed of in such way as to him shall seem proper.

251. No person shall sell to the prejudice of the purchaser any article of food which is not of the nature, substance or quality of the article demanded by such purchaser under a penalty not exceeding one hundred rupees:

Prohibition of the sale of articles of food not of the proper nature, substance or quality.

Provided that an offence shall not be deemed to be committed under this section in the following cases, that is to say:—

- (1) where any matter or ingredient not injurious to health has been added to the food, because the same is required for the production or preparation thereof as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure of the food, or conceal the inferior quality thereof;
- (2) where the food is unavoidably mixed with some extraneous matter in the process of collection or preparation.

The term "food" shall include every article used for food or drink by man other than drugs or water.

¹ For further provisions as to slaughter-houses and meat and fish markets, see the Bengal Municipal (Slaughter-houses and Meat Markets) Act, 1865 (Ben. Act 7 of 1865), ante, p. 43.

² This section was substituted for the original section 251 by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 8 of 1896), s. 2, post, p. 379.

(Part VI.—Of Special Regulations.—Secs. 251A-252.)

In any prosecution under this section it shall be no defence to allege that the purchaser, having bought only for analysis, was not prejudiced by the sale.

No proceedings to be had without leave of the Commissioners.

Power of Commissioners to enter and inspect markets, shops, etc., and to seize unwholesome articles exposed for sale.

Power to destroy unwholesome articles.

251A. No proceedings shall be instituted under the last preceding section without the order or consent of the Commissioners.

251B. The Commissioners, or any person authorized by them in that behalf, may, at all reasonable times, enter into and inspect any market, building, shop, stall or place used for the sale or storage of articles intended for food, or as a slaughter-house, and may examine any such articles which may be therein, and, if upon examination such articles, or any of them, appear to be unfit for food, may seize the same.

251C. Upon the seizure of any article of food under the last preceding section, the same may, if the owner or the person in whose possession the same is found consents, be forthwith destroyed or so disposed of as to prevent it being used as food, but, if the owner or the person in whose possession the same is found do not consent, then, if it appear to a Magistrate upon sufficient evidence that the same is unfit for food, he shall order the same to be destroyed or so disposed of as to prevent it being used as food, and may impose a penalty not exceeding one hundred rupees upon the owner, or person in whose possession the same was found, such person not being merely a carrier or bailee thereof.

Person refusing to sell any article to Commissioners liable to penalty.

251D. If the Commissioners, or any person authorized by them in that behalf, shall apply to purchase any article of food exposed to sale, and shall tender the price for quantity not more than shall be reasonably requisite for the purpose of analysis, and the person exposing the same for sale shall refuse to sell the same, such person shall be liable to a penalty not exceeding fifty rupees.

Registry of shops for sale of European drugs.

252. No shop or place shall be kept for the retail sale of drugs recognized by the British Pharmacopœia, not being also articles of ordinary domestic consumption, unless the same shall have been registered in the office of the Commissioners. Any keeper of such shop or place failing to register the same within two months after this section shall come into force, or within two months from the date of the establishment of such place, shall be liable to a fine not exceeding one hundred rupees. The Commissioners shall, upon registration, grant the keeper of such shop or place a license which he shall be bound to display in some conspicuous part of his premises.

Certificated dispensers.

No person shall compound, mix, prepare, dispense or sell any drug in any such registered shop or place unless he be y certified as a fit person to be entrusted with such duties.

¹ Sections 251A to 251D were inserted by the Bengal Municipal (Amendment) Act, 1930 (B.M. Act 3 of 1930), s. 3, post, p. 579.

(Part VI.—Of Special Regulations.—Secs. 253, 254.)

under rules¹ made for that purpose by the Local Government:

Provided that the provisions contained in the second clause of this section shall not come into operation until after the expiration of a period of six months from the publication of a notification² to that effect in the Calcutta Gazette by the Local Government.

Nothing in this section contained shall be construed to apply to the sale of drugs used by practitioners of indigenous medicines, whether recognized by the British Pharmacopœia or not, when such drugs are not sold in a shop or place where medicines recognized by such Pharmacopœia are dispensed upon prescription.

253. The Commissioners, or any person authorized by them in that behalf, may at all reasonable times enter into and inspect any place kept for the sale of drugs, or in which drugs are sold, and if they have reason to suspect that any drug in the said place is adulterated, or by reason of age or the effect of climate has become inert or unwholesome, or has otherwise become deteriorated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, may remove the same on giving a receipt therefor, specifying the nature and quantity of the drug removed, and its approximate value; and if it appear to a Magistrate that the said drug, removed as aforesaid, is adulterated or has become inert, unwholesome or deteriorated, as aforesaid, he may order the same to be destroyed, or to be so disposed of as to him may seem fit.

Inspection
drugs.

If it shall appear to the said Magistrate that the drug so removed is not adulterated or has not become inert, unwholesome or deteriorated as aforesaid, the person from whose shop or place it has been taken shall be entitled to have it restored to him, and it shall be in the discretion of the said Magistrate to award him such compensation as he may think proper, not exceeding the actual loss which has been sustained.

Compensation,
if drugs be not
adulterated.

If the drug removed as aforesaid is not brought before a Magistrate, it shall be restored to the person from whose shop or place it was taken, and such person shall be entitled to compensation for any actual loss which he may have sustained by the removal of the said drug.

OF BURIAL AND BURNING GROUNDS.

254. Within three months from the date on which this and the six³ next succeeding sections may come into force as provided in section 222, every place which is used as a burial or burning ground for corpses shall be registered as such by

Registration
of existing
burial and
burning
grounds.

¹ For rules made under section 252 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² For a list of orders made under this proviso for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI, opposite a. 221 of Ben. Act 3 of 1904.

³ i.e., ss. 255, 256, 257, 258, 259 and 260.

(Part VI.—Of Special Regulations.—Secs. 255-257.)

the owner thereof in the office of the Commissioners, but no fee shall be charged for such registry.

No new or disused burial or burning place henceforth to be used without leave of Government or of Commissioners. Commissioners may order certain burial or burning grounds to be closed.

255. No burial or burning ground, whether public or private, shall be made or formed, or, having lapsed into disuse, shall be again used as such, otherwise than with the permission of the Commissioners, or under the authority of the Local Government¹.

256. If it shall appear to the Commissioners at a meeting that any public or private burial or burning ground is dangerous to health or offensive to the tax-payers, or to the inhabitants of the neighbourhood, and also that a suitable place for interment or burning, as the case may be, exist within a convenient distance, and is open and available to the inhabitants of the municipality, the Commissioners shall give public notice of their intention to close such burial or burning ground, and shall consider any objections which may be preferred within fifteen days of the publication of such notice; after considering such objections, they may, by notification to be affixed on some conspicuous part of the ground, appoint a time, not being less than two months, for the closing of such burial or burning ground.

If any building is attached to, and used in connection with a burning ground closed under this section, the Commissioners shall, if the owner of such building make an application to them in that behalf, take over the same on payment of a fair price therefor.

Private burial places may be excepted.

256A. When notice is given of the intention to close any burial-ground under the last preceding section, private burial-places in such burial-grounds may be excepted from the notice, subject to such conditions as the Commissioners at a meeting may impose in this behalf:

Provided that the limits of such burial-places are defined, and that they shall only be used for the burial of members of the family of the owners thereof.

Appeals from orders under sections 256 and 256A.

256B. Any person aggrieved by any order made by the Commissioners under the powers conferred upon them by the two last preceding sections may appeal to the Magistrate, whose decision shall be final.

Prohibition to bury or burn in unregistered ground.

257. After the expiration of the three months mentioned in section 254, no corpse shall be buried or burnt otherwise than in a place which is borne on the register of the Commissioners as an open burial or burning ground; but the Commissioners may grant special permission for a corpse to be buried or burnt elsewhere.

¹ As to the delegation to Commissioners of Divisions of the Local Government's power, see s. 29A, *supra*, p. 724.

² Sections 256A and 256B were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 72, in Vol. III of this Code.

[1884.]

(Part VI.—Of Special Regulations.—Secs. 253-261.)

253. After the expiration of not less than twenty-four hours from the death of any person, the Commissioners may cause the corpse of such person to be burnt or buried, and the expenses thereby incurred shall be recoverable as a debt due from the estate of such person. In every such case the corpse shall be disposed of, so far as may be possible, in a manner consistent with the religious tenets of the deceased.

Commissioners may cause corpses to be burnt or buried according to the religious tenets of the deceased.

259. The Commissioners at a meeting may, from time to time, out of the municipal fund, with the sanction of the Local Government¹ to provide fitting places to be used as burial or burning grounds, and may impose a fee not exceeding two rupees in respect of every corpse buried or burnt within such burial or burning grounds.

Commissioners may provide places to be used as burial or burning grounds.

260. The Commissioners at a meeting may, from time to time, out of the municipal fund, provide for the burial and burning of paupers free of charge within the limits of the municipality.

Commissioners may provide for burial of paupers free of charge.

260A. (1) The Commissioners may, from time to time, grant licenses to persons applying for the same, for the sale at burning grounds of fuel and other articles used for the cremation of dead bodies, and in case any such license shall be granted shall, at a meeting, prescribe a scale of rates for the sale of such articles; and any person not so licensed, who shall, within three hundred yards of any such burning ground, sell or offer for sale any such fuel or other articles, shall be liable to a fine not exceeding fifty rupees.

Power to license fuel shops at burning grounds.

(2) The Commissioners may, on good and sufficient cause, revoke or withdraw any such license they may think fit, and any person to whom any such license is granted, who shall charge for the sale of any such article any higher rate than the rate fixed for such article in such scale, shall, at the discretion of the Commissioners, be liable to have his license cancelled, and shall be liable also to a fine not exceeding ten rupees.

OF CERTAIN OFFENSIVE AND DANGEROUS TRADES
OR OCCUPATIONS.

261. Within such local limits as may be fixed by the Commissioners at a meeting, no place shall be used without a license from the Commissioners, which shall be renewable annually, for any of the following purposes, namely:—

- melting tallow;
- boiling offal or blood;
- skinning or disembowelling animals;
- as a soap-house, oil-boiling house, dyeing-house;

Certain offensive and dangerous trades not to be established within limits to be fixed by the Commissioners without license.

¹ As to the delegation to Commissioners of Divisions of the Local Government's power, see s. 32A, ante, p. 734.

² Section 260A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 78, in Vol. III of this Code.

(Part VI.—Of Special Regulations.—Secs. 262, 262A.)

as a tannery, slaughter-house, or kiln for making bricks, pottery, tiles or lime;
 as a manufactory or place of business from which offensive or unwholesome smells may arise;
 as a yard or depot for trade in hay, straw, wood, thatching-grass, jute or other dangerously inflammable material;
 as a store-house for kerosine, petroleum, naphtha or any inflammable oil or spirit;
 as a shop for the sale of meat;
 [as a place for the storage of rags or bones, or both;] or
 as a lodging-house or a *sarai*.

Such license shall not be withheld unless the Commissioners have reason to believe that the business which it is intended to establish or maintain would be offensive or dangerous to persons residing in or frequenting the immediate neighbourhood.

¹ [The Commissioners at a meeting may, in accordance with a scale of fees² to be approved³ by the Commissioner of the Division, levy a fee in respect of any such license and the renewal thereof, and may impose such conditions upon the grant of any such license as they may think necessary.]

Commissioners may, in certain cases, order the use of slaughter-houses and the carrying on of dangerous and offensive trades to be discontinued.

262. If it be shown to the satisfaction of the Commissioners at a meeting that any place licensed under section 261 is a nuisance to the neighbourhood, they may, notwithstanding anything contained in the said section, give notice to the occupier to discontinue the use of such place within one month after the date of such notice:

⁴ [Provided that in this case the Commissioners shall refund so much of the fee levied under the last preceding section as may be proportionate to the unexpired portion of the year for which the license was granted.]

Commissioners may prohibit private kilns.

262A. Within such local limits as may be fixed by the Commissioners at a meeting, no place shall be used as a kiln for making bricks, pottery, tiles or lime for private purposes.

¹ These words in square brackets were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 74 (1), in Vol. III of this Code.

² This paragraph was substituted for the original paragraph by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 74 (2), in Vol. III of this Code. The original paragraph ran as follows:—

"The Commissioners may levy a fee in respect of such license and the renewal thereof, and may impose such conditions upon the licensee as they may think necessary."

³ Section 261 is repealed, in so far as it entitles the Commissioners to levy fees in respect of premises licensed as depots for hay, straw, wood, rags, jute or other dangerously inflammable material which are licensed and used as warehouses under the Licensed Warehouse and Fire-Brigade Act, 1898 (Ben. Act 1 of 1898)—see the latter Act, s. 46, in Vol. III of this Code.

⁴ For a list of orders made by Commissioners of Divisions under this paragraph of section 262 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ This proviso was added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 75, in Vol. III of this Code.

⁶ Section 262A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 75, in Vol. III of this Code.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 263-267.)

263. Within such limits as the Commissioners at a meeting may determine, no milkman, cartman, livery stable-keeper or keeper of hackney carriages, shall keep horses, ponies or cattle * * * for the purposes of trade or business, except in a place licensed by the Commissioners.

Milkman,
etc., not to
keep animals
or cattle
without
license.

The Commissioners may license places for such purpose, and may levy a fee not exceeding one rupee on the issue and renewal of any such license. Such license shall be renewed in the first and seventh months of each year.

It shall be in the discretion of the Commissioners at a meeting to grant any such license subject to such conditions as they may think fit.

264. The Commissioners may provide public stables for the accommodation of horses and cattle, and may direct that, within such limits as they shall at a meeting determine, no person shall keep horses or cattle exceeding ten in number, for the purpose of trade, or business, except in such public stables, or in places licensed under the preceding section.

Commis-
sioners may
provide
public stables.

The Commissioners may charge such reasonable fees as they shall think fit for the use of such public stables.

265. Within such limits as the Commissioners may direct, no person shall keep any pig-sty adjoining or near a road unless it is shut out therefrom by a sufficient wall or fence, and in no place within such limits shall more than ten pigs or more than twenty sheep or goats be kept without the written permission of the Commissioners.

Conditions for
keeping
pig-sty.

The Commissioners may charge an annual fee not exceeding two rupees for such permission, and may impose such conditions in respect of such permission as they may think necessary.

PENALTIES.

266. Any person constructing a privy within a municipality, and failing to have it shut out from view, as in section 225 required, shall be liable to a fine not exceeding twenty rupees.

Failing to
shut out
privy from
view.

267. Whoever erects a hut, or any range or block of huts or sheds, or adds to any hut or shed, or to any range or block already existing, contrary to the provisions of section 243, and whoever fails to remove such hut, block of huts or shed when required by the Commissioners to do so, shall be

Erecting huts
without
notice.

¹ The words "exceeding ten in number", in s. 268, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 77, and are omitted.

² Section 267 applies to all municipalities in Bengal except Darjeeling, having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 23.

(Part VI.—Of Special Regulations.—Secs. 268-270.)

liable to a fine not exceeding twenty rupees for every such offence, and to a further fine, not exceeding five rupees, for each day during which the offence is continued after he has been convicted of such offence.

Disobeying
requisition
under section
249.

268. If any owner, occupier or farmer of any place for the sale of meat, poultry, fish or vegetables, or of any slaughter-house, within the limits of a municipality, after notice in writing given to him by the Commissioners that such place or slaughter-house is defective in any of the particulars specified in section 249, and requiring him to remedy the defect specified within not less than thirty days, makes default therein, he shall be liable to a fine not exceeding twenty rupees for every day during which such default is continued after the expiration of the period mentioned in such notice.

Cutting up
road for
passage of
water, etc.

269. If any person, in order to provide for the passage of water, or for any other purpose, shall, without the consent of the Commissioners, dig or cut up any public road or thoroughfare, he shall be liable to a fine not exceeding twenty-five rupees, and shall in addition be bound to pay the expenses incurred in filling up any excavation made by him or on his behalf in any such public road or thoroughfare.

Throwing
rubbish into
sewers.

270. Whoever, within a municipality,—

Allowing
water of any
sewer, etc.,
to run on any
road.

(1) without the permission of the Commissioners, throws or puts, or permits his servants to throw or put, any sewage or offensive matter on to any road, or who throws or puts, or permits his servants to throw or put, any earth, rubbish, sewage or offensive matter into any sewer or drain belonging to the Commissioners, or into any drain communicating therewith; or

(2) causes or allows the water of any sink, sewer or cesspool, or any other offensive matter belonging to him or being on his land, to run, drain or be thrown or put upon any road, or causes or allows any offensive matter to run, drain or be thrown into a surface-drain near any road; or

Constructing
latrine, etc.,
in contraven-
tion of
sections 230
and 231.

(3) constructs a latrine, urinal, cesspool, house-drain or privy in contravention of the provisions of sections 230 and 231; or

Making
excavations.

(4) without the written permission of the Commissioners, digs or makes, or causes

¹ Clauses (d) and (e) of section 270 apply to all municipalities in Bengal except Darjeeling, having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 23.

of 1884.]

(Part VI.—Of Special Regulations.—Sacs. 271, 272.)

or suffers to be dug or made, any excavation, cesspool, tank or pit, in contravention of the provisions of section 232.

¹ [or

making roof
or wall of
grass, etc.

² (5) makes or repairs a roof or wall with grass, leaves, mats or other inflammable material in contravention of the provisions of section 236.]

shall be liable, for every such offence to a fine not exceeding twenty-five rupees.

Disobeying
requisition
under section
224, 225, 227,
230, 231 or
238.

³ 271. Whoever, within a municipality, fails to comply with a requisition issued by the Commissioners under the provisions of section 224, 225, 227, 230, 231 or 238,⁴ shall be liable, for every such offence, to a fine not exceeding twenty-five rupees and to a further fine, not exceeding five rupees for every day during which he shall continue to make such default after service on him of such requisition.

272. Whoever, within a municipality,—

(1) without the written consent of the Commissioners previously obtained, makes or causes to be made, or

⁵ 271. Whoever, within a municipality, fails to comply with a requisition issued by the Commissioners under the provisions of section⁶ 224, 225 * * 230, 231⁷ or * * shall be liable, for every such offence to a fine not exceeding twenty-five rupees, and to a further fine, not exceeding five rupees, for every day during which he shall continue to make such default after service on him of such requisition.

Disobeying
requisition
under section
224, 225, 230
or 231.

Altering, etc.
drains leading
to public
sewers.

¹ The word "or" in clause (4), and clause (5), of s. 270 were added by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 78, in Vol. III of this Code.

² Clauses (4) and (5) of section 270 apply to all municipalities in Bengal except Darjeeling, having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 28.

³ Section 271 applies in this form to all municipalities in Bengal except Darjeeling.

⁴ The differences in the section as applying to municipalities in Darjeeling and elsewhere lie in the figures printed in italics.

⁵ Section 271 applies in this form to the Darjeeling Municipality.

⁶ The figures "224" and "227", in section 271, were inserted, and the figures and word "231 or 238" were substituted for the word and figures "or 231," by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, in Vol. III of this Code.

⁷ The figures "224" in section 271, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, in Vol. III of this Code.

⁸ The figures "227", which were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 28, are omitted here.

⁹ This reference to s. 231 was substituted for the original reference by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, in Vol. III of this Code.

¹⁰ The figures "238", which were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 79, and repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 28, are omitted here.

[Ben. Act 3]

(Part VI.—Of Special Regulations.—Sec. 272A.)

alters or causes to be altered, any drain leading into any of the sewers or drains vested in the Commissioners by this Act; or

Making drains contrary to the orders of the Commissioners.

¹(2) constructs any branch drain, privy or cesspool contrary to the directions and regulations of the Commissioners or contrary to the provisions of this Act, or, without the consent of the Commissioners, constructs, re-builds or unstops any drain, privy or cesspool which has been ordered by them to be demolished or stopped up or not to be made;

²(2) constructs any * * * privy or cesspool contrary to the directions and regulations of the Commissioners or contrary to the provisions of this Act, or without the consent of the Commissioners, constructs, re-builds or unstops any * * * privy or cesspool which has been ordered by them to be demolished or stopped up or not to be made,

Making privy or cesspool contrary to the orders of the Commissioners.

shall be liable, for every such offence, to a fine not exceeding fifty rupees.

‘272A. Whoever—

- (a) contravenes any provision of any of the clauses of this Act mentioned in the first column of the following table, or
- (b) fails to comply with any requisition lawfully made upon him or any direction lawfully given to him under any of the said clauses,

Fine for certain offences.

shall be punished with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed “subject,” are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column.

¹ Clause (2) of section 272 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the clause as applying to municipalities in Darjeeling and elsewhere lie in the words printed in italics.

² Clause (2) of section 272 applies in this form to the Darjeeling Municipality.

³ So much of clause (2) of section 272 as relates to drains having been repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 28, the words “branch drain” and “drain,” respectively, are omitted here.

⁴ Sections 272 A to 272 E were inserted, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 19, in Vol. III of this Code.

of 1884.]

(Part VI.—Of Special Regulations.—Sec. 272A.)

Clauses.	Subject.	Fine which may be imposed.
1	2	3
Section 201 D ...	Requisition to reconstruct, etc., a private road or bridge.	Five hundred rupees.
„ 201 E ...	Requisition to provide and maintain, or to enlarge, water-way.	Two hundred and fifty rupees.
„ 201 F ...	Construction, etc., of private road or bridge.	Two hundred and fifty rupees.
„ 201 G ...	Requisition to close a private road.	Two hundred and fifty rupees.
„ 207 A, clause (b).	Requisition to remove <i>debris</i> falling upon or into a private road or drain.	Fifty rupees.
„ 210 B ...	Requisition to take down a building, etc., where buildings, etc., threaten the stability of other immovable property.	Five hundred rupees.
„ 210 C ...	Requisition to take down a building, etc., where hillside or bank threatens the safety of buildings.	Five hundred rupees.
„ 224 C ...	Requisition to re-construct, etc., a private drain.	Two hundred and fifty rupees.
„ 227 ...	Requisition to provide a drain	Two hundred and fifty rupees.
„ 229 A ...	Construction, etc., of private drain.	Two hundred and fifty rupees.
„ 236, sub-section (1)	Construction of external roofs or walls with inflammable material.	Twenty-five rupees.
„ 236, sub-section (2)	Requisition to remove or alter external wall or roof made of inflammable material.	Twenty-five rupees.
„ 244 E, sub-section (1)	Sending written notice to Commissioners before commencing building work.	Fifty rupees.

(Part VI.—Of Special Regulations.—Sec. 272B.)

Clauses.	Subject.	Fine which may be imposed.
1	2	3
Section 244 F ...	Sending written notice to Commissioners after completion of building work.	Fifty rupees.
„ 244 Q, sub-section (1)	Sending written notice to Commissioners before commencing building work.	Twenty-five rupees.
„ 244 T, sub-section (1)	Requisition to stop work pending decision of Magistrate.	Five hundred rupees.
„ 244 V, sub-section (1)	Prohibition of occupation of unsafe building.	Two hundred and fifty rupees in the case of a masonry or framed building and twenty-five rupees in the case of a hut.
„ 244 V, sub-section (2)	Prohibition of occupation of insanitary building.	Fifty rupees.
„ 244 X, sub-section (2)	Using building declared unfit for human habitation.	Fifty rupees.
„ 244 Y, sub-section (1)	Requisition to abate overcrowding in building or room.	Fifty rupees.
„ 244 Y, sub-section (2)	Requisition to vacate overcrowded building or room.	Ten rupees.
„ 244 Z, sub-section (1)	Requisition to provide, repair, etc., roof-gutters and down-pipes or masonry platforms.	One hundred rupees.
„ 248 A ...	Requisition to construct revetment, etc.	Five hundred rupees.
„ 248 E ...	Revetment, turing and sloping.	Two hundred and fifty rupees.

Continuing
fine for certain
offences.

¹ 272B. Whoever, after having been convicted of failing to comply with any requisition

¹ See foot-note 4 on page 822, *ante*.

[1954.]

(Part VI.—Of Special Regulations—Sec. 272B.)

lawfully made upon him or any direction lawfully given to him under any of the clauses of this Act mentioned in the first column of the following table,

continues to neglect to comply with the said requisition or direction,

shall be punished, for each day after the first during which he continues so to offend, with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the following table, headed "Subject," are not intended as definitions of the offences described in the clauses mentioned in the first column, or even as abstracts of those clauses, but are inserted merely as references to the subject of the clause, the number of which is given in the first column.

Clauses.	Subject.	Daily fine which may be imposed.
1	2	3
Section 201 D ...	Requisition to re-construct, etc., a private road or bridge.	One hundred rupees.
" 201 E ...	Requisition to provide and maintain, or to enlarge, water-way.	Fifty rupees.
" 201 G ...	Requisition to close a private road.	Fifty rupees.
" 207 A, clause (b).	Requisition to remove <i>debris</i> falling upon or into a private road or drain.	Ten rupees.
" 210 B ...	Requisition to take down a building, etc., where buildings, etc., threaten the stability of other immovable property.	One hundred rupees.
" 210 C ...	Requisition to take down building, etc., where hillside or bank threatens the safety of buildings.	One hundred rupees.
" 224 C ...	Requisition to re-construct, etc., a private drain.	Fifty rupees.
" 227 ...	Requisition to provide a drain	Fifty rupees.

(Part VI.—Of Special Regulations.—Sec. 272C.)

Clause.	Subject.	Daily fine which may be imposed.
1	2	3
Section 244 V, sub-section (1)	Prohibition of occupation of unsafe building.	Fifty rupees in the case of a masonry or framed building and five rupees in the case of a hut.
" 244 V, sub-section (2)	Prohibition of occupation of insanitary building.	Ten rupees.

Fine for unlawfully commencing, carrying on or completing work.

¹ **272C.** If any work referred to in section 201C, sub-section (1), or section 224B, sub-section (1), or the erection, re-erection or material alteration of any building—

- (a) is commenced without obtaining the permission of the Commissioners, or (where an appeal or reference has been made to the Engineer appointed under section 351D) without waiting until the Commissioners have received the orders of the Engineer, or in contravention of any orders passed by him, or
- (b) is carried on or completed otherwise than in accordance with the particulars on which such permission or orders was or were based, or
- (c) is carried on or completed after such permission has been withdrawn, or
- (d) is carried on or completed in breach of any provision contained in this Act or in any rules or by-laws made hereunder, or of any condition, modification, direction or requisition lawfully imposed, made or given under this Act or such rules or by-laws, or

[1864.]

(Part VI.—Of Special Regulations.—Secs. 272D, 272E.)

if any alterations required by any notice issued under section 244H be not duly made,

the owner shall be liable to fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to five hundred rupees, and in the case of a hut, to fifty rupees, and

to further fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to one hundred rupees, and in the case of a hut, to ten rupees, for each day after conviction during which the offence is continued.

¹ 272D. If any person to whom a direction to demolish or alter work is given under clause (i) of section 244H fails to obey the same, he shall be liable

Fine for disobedience of direction for demolition or alteration where work unlawfully commenced, carried on or completed.

to fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to five hundred rupees, and in the case of a hut, to fifty rupees, and

to further fine which may extend, in the case of a road, bridge, drain or masonry or framed building, to one hundred rupees, and in the case of a hut, to ten rupees, for each day after conviction during which he so fails.

¹ 272E. When a building has been erected re-erected or materially altered under this Act, without any statement having been made, under rule 23 or rule 28 of Schedule C, that it was intended to use the building or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house, then any person using the building or any part thereof for any of those purposes shall be liable,—

Fine for using building for carrying on offensive trade without previous declaration.

(a) in the case of a masonry or framed building, to fine which may extend to two hundred rupees, and to further fine which may extend to twenty rupees for each day after conviction during which he continues such use, and,

(b) in the case of a hut, to fine which may extend to twenty rupees, and to

¹ See foot-note * on page 522, ante.

(Part VI.—Of Special Regulations.—Sec. 273.)

further fine which may extend to five rupees for each day after conviction during which he continues such use.

Offence under
section 235,
238, 241 or
242.

273. Whoever, in a municipality,

¹ (1) begins to build or to take down, or alter or repair any house contrary to the provisions of section 235, ² 238 or 241,

or lets a house for occupation contrary to the provisions of section 242,

or, without written permission, erects or sets up any hoard, scaffolding or fence whatsoever,

or who, being permitted, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition,

or who does not, while such hoard or fence is standing, keep the same sufficiently lighted during the night,

or who does not remove the same within eight days, when directed by the Commissioners; or

273. Whoever, in a municipality, Offence under section 235

¹ (1) begins to build or to take down, or alter or repair, any house contrary to the provisions of section 235,

or, without written permission erects or sets up any hoard, scaffolding or fence whatsoever,

or who, being permitted, fails to put up such fence or hoard, or to continue the same standing, or to maintain the same in good condition,

or who does not, while such hoard or fence is standing, keep the same sufficiently lighted during the night,

or who does not remove the same within eight days, when directed by the Commissioners; or

¹ Clause (1) of section 273 applies in this form to all municipalities in Bengal except Darjeeling. The differences in the clause, as applying to municipalities in Darjeeling and elsewhere lie in the matter printed in italics.

² Clause (1) of section 273 applies in this form to the Darjeeling Municipality.

³ The figures "238" in this clause (1) of s. 273, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80, in Vol. III of this Code.

⁴ The figures "239" were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 80. Those figures, with the words and figures, "or 241, or lets a house for occupation contrary to the provisions of section 242," were repealed in the Darjeeling Municipality by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 32, and are omitted here.

of 1884.]

(Part VI.—Of Special Regulations.—Secs. 274-277.)

- (2) without a license uses any place for any of the purposes specified in section 261 or section 263; or
 [uses any place as a kiln in contravention of the provisions of section 262A; or]
- (3) being a holder of a license under section 261 or section 263, breaks any condition of such license; or
- (4) after the issue of an order under section 264, keeps horses or cattle exceeding ten in number in contravention of such order; or
- (5) keeps any pig-sty, pigs, sheep or goats contrary to the provisions of section 265,

Offence under section 261, 262A & 263.

Offence under section 261 or 263.

Offence under section 264.

Offence under section 265.

shall be liable, for every such offence, to a fine not exceeding fifty rupees, and to a further fine not exceeding ten rupees, for every day during which the offence is continued after he has been convicted of such offence.

274. Whoever, within a municipality, after the expiration of the period mentioned in section 257, knowingly buries or burns, or causes, procures or suffers to be buried or burned, any corpse in or on any ground not registered as a burial or burning ground, shall be liable to a fine not exceeding one hundred rupees.

Burying or burning corpse in unregistered grounds.

275. Whoever, within a municipality, uses any such place as is mentioned in section 252, without the same being registered, shall be liable to a fine not exceeding one hundred rupees, and to a further fine not exceeding twenty rupees for each day during which the offence is continued after he has been convicted of such offence.

Offence under section 252.

276. Whoever, within a municipality, not being the holder of such certificate as is mentioned in the second clause of section 252, shall compound, mix, prepare or sell any drugs in any registered shop or place, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees for each offence; and any owner, occupier or keeper of any such shop or place, who shall employ any such uncertified person to perform any one or more of such duties, shall on conviction before a Magistrate, be liable to a fine not exceeding two hundred rupees, and shall be further liable, at the discretion of such Magistrate, to forfeit his license:

Uncertified person disposing drugs.

Provided that this section shall not come into operation until after the expiration of a period of six months from the publication of a notification¹ to that effect in the Calcutta Gazette by the Local Government.

277. Whoever, within a municipality, after the expiration of the time specified in a notice issued by the Commissioners under the provisions of section 262, uses, or permits to be used,

Notice under section 262.

¹ The words and figures in square brackets in clause (2) of s. 275 were added by the Bengal Municipal (Amendment) Act, 1894 (Ben Act 4 of 1894), s. 80, in Vol. III of this Code.

² For a list of notifications issued under this proviso for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI, opposite s. 231 of Ben. Act 2 of 1884.

(Part VI.—Of Special Regulations.—Part VII.—Of
Water-supply.—Secs. 278, 279.)

the place specified in such notice in such a manner as to be a nuisance to the neighbourhood, shall be liable to a fine not exceeding two hundred rupees, and to a further fine not exceeding forty rupees for each day during which the offence is continued after he has been convicted of such offence.

Suspension or
revocation of
license, etc.

278. Any Magistrate before whom any person is convicted of an offence contrary to the provisions of this Act, relating to the use of any place for a purpose for which a license is required, or of the non-observance of any of the by-laws relating thereto made under this Act, in addition to the fine which may be imposed on such person under this Act, may suspend, for any period not exceeding two months, any such license.

And the Commissioners, upon the conviction of any person for a second or other subsequent like offence, may cancel his license.

PART VII.

OF A WATER-SUPPLY.

Imposition of
water-rate.

279. (1) In any municipality to which the provisions of this Part shall be extended in the manner prescribed by section 222, it shall be lawful for the Commissioners at a meeting to impose a water-rate¹ not exceeding seven and a-half *per centum* on the annual value of holdings when the houses and lands are situated in any road supplied with water, and not exceeding six *per centum* when the house and lands are situated in any road not so supplied.

¹[(1a) With the sanction⁴ of the Local Government, the amount of the water-rate imposed under this section may vary with the distance of houses or lands from the nearest stand-pipe or other source of water-supply, and the amount may be higher in the case of premises to which communication pipes are attached than in the case of other premises.]

(2) In fixing the amount⁵ [or amounts] of the rate, regard shall be had to the principle that the total net proceeds of the tax, together with the estimated income from payments for

¹ This section was substituted for the original section 279 by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 4 of 1896), s. 81, in Vol. III of this Code.

² As to the imposition of a water-rate, see also s. 86, *supra*, p. 746.

³ Sub-section (1a) was inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 4 of 1896), s. 18(2), in Vol. III of this Code.

⁴ For an order made under section 279 (1a) for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ The words "or amounts", in s. 279 (2), were inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 4 of 1896), s. 18 (3), in Vol. III of this Code.

(Part VII.—Of a Water-supply.—Secs. 280-283.)

water supplied from the works under special contract or otherwise, shall not exceed the amount required for carrying out the purposes of this Part.

(3) The water-rate shall be paid by the occupiers of the holdings by quarterly instalments in advance:

Provided that such water-rate shall not be levied upon—

- (a) any house or land, no part of which is within a radius to be fixed¹ by the Local Government for each municipality from the nearest stand-pipe or other supply of water available to the public; or
- (b) any land used exclusively for purposes of agriculture;² [or
- (c) any holding consisting only of tanks:]

Provided also that nothing in this section shall prevent the Commissioners from making any special arrangement consistent with this Act with persons residing beyond the radius fixed by the Local Government.

280. The annual value of holdings shall be the value determined by the Commissioners for the imposition of the rate on holdings under the provisions of Part IV of this Act, or, if no such rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 96 to 109 (both inclusive), and 112 to 130 (both inclusive), shall, *mutatis mutandis*, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the water-rate.

Valuation, assessment and collection of water rate.

281. Whenever the person by whom the water-rate shall have been paid, or from whom the said rate shall have been recovered, is not the owner of the house or land in respect of which the water-rate shall have been assessed, such person may recover from the owner one-fourth of the water-rate so paid or recovered, and may deduct the same from the rent payable by him to such owner.

Occupier paying water-rate may deduct one-fourth from rent due to owner.

282. Whenever any house or land has been unoccupied during an entire quarter, the owner of the said house or land shall pay to the Commissioners one-fourth of the sum which would have been payable as water-rate by the occupier if such house or land had been occupied.

When house is unoccupied, owner to pay one-fourth of water-rate.

The sum payable by the owner under this section shall be deemed to be due on the first day of the quarter following that in respect of which the said sum is payable.

283. Whenever any quarterly instalment of the water-rate shall have been paid in respect of any house or land, and such house or land shall, during the quarter for which such instalment shall have been paid, cease to be occupied, the person

Refund of water-rate when house ceases to be occupied.

¹ For a list of orders made under section 279 (3) (a) for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² The matter in square brackets was inserted by the Bengal Municipal (Amendment) Act, 1906 (Ben. Act 2 of 1906), s. 14, in Vol. III of this Code.

(Part VII.—Of a Water-supply.—Secs. 284-288.)

who shall have paid such water-rate shall be entitled to be repaid by the Commissioners three-fourths of such sum as shall bear to the amount paid by him the same proportion which the residue of the quarter bears to the entire quarter:

Provided that notice shall have been given in writing to the Commissioners of such house or land being unoccupied, and that the application for refund be made within six months next after the date on which the house or land ceased to be occupied.

The date on which the said notice is delivered at the office of the Commissioners shall, for the purposes of this section, be deemed to be the date on which the house or land ceased to be occupied.

Rate payable
on house being
re-occupied.

284. Whenever any house or land which shall have been unoccupied shall begin to be occupied during any quarter, there shall be forthwith payable by the occupier in respect of such house or land a sum calculated at one-fourth of the rate that would have been payable if the house or land had been occupied during the entire quarter for the period during which the house or land was not occupied, and the full rate for the residue of the quarter.

And such occupier shall be entitled to deduct from the rent, or otherwise recover from the owner, one-fourth of the water-rate that would have been payable if the house or land had been occupied during the entire quarter.

Person sub-
letting to
several differ-
ent tenants
to be deemed
occupier.

285. Whenever any person holding any house or land from the owner thereof has sub-let the same in severalty to two or more persons, the person holding from the owner shall, for the purposes of this Part, be deemed to be the occupier of such house or land.

Owner to pay
water-rate in
certain other
cases.

286. The provisions of sections 312, 313 and 314 shall be applicable to this Part:

Provided that the owner shall not be entitled to recover from any occupying tenant more than three-fourths of the water-rate that would but for this proviso be recoverable by him under the said sections.

The Commis-
sioners to
provide water-
supply.

287. In any municipality to which the provisions of this Part shall be extended, the Commissioners shall provide a supply of water within the limits of the municipality; and for this purpose it shall be lawful for them to cause such mains and pipes to be laid, and such tanks, reservoirs or other works to be made and constructed, as shall be necessary for the supply of water in the chief public streets; and they may also erect in all such streets sufficient and convenient stand-pipes or pumps for the use of the inhabitants of the municipality for domestic purposes.

What are
domestic
purposes.

288. A supply of water for domestic purposes shall not include a supply of water for animals or for washing carriages, where such animals or carriages are kept for sale or hire, or a supply for any trade, manufacture or business, or for watering

(Part VII.—Of a Water-supply.—Secs. 289-292.)

gardens or roads, or for any oramental or mechanical purpose.

289. The Commissioners at a meeting shall determine what pressure of water shall be maintained in their service-pipes and mains, and during what hours such pressure shall be continued; and any rule made under this section shall be published in such manner as the Commissioners may direct, and shall not be altered except with the sanction of the Commissioners at a meeting.

Pressure at which water must be kept.

290. Whenever the Commissioners deem it practicable and consistent with the maintenance of an efficient water-supply, they may, at a meeting and subject to such rules¹ and conditions as the Local Government may make and impose, allow the owners and occupiers paying the water-rate hereinbefore mentioned to lay down communication-pipes from the service-pipes of the Commissioners, for the purpose of leading water to their premises for domestic purposes.

Communication-pipes.

291. The communication-pipes and all fittings thereon leading water from the service-pipes of the Commissioners into any house or land, and the pipes, works and fittings inside the house or land, must in all cases be executed subject to the inspection and satisfaction of the Commissioners.

Communication-pipes, etc., must be made to satisfaction of officers of the Commissioners.

Such communication-pipes, works and fittings may be made by the servants and workmen of the Commissioners upon such terms as may be agreed upon between the Commissioners and the person requiring the supply, or subject to such charges as may be fixed by the Commissioners; and the Commissioners may require the amount necessary for the execution of such works to be paid or deposited before such works are executed.

And such charges and expenses shall be recoverable in the same manner as the water-rate.

292. Any officer authorized in that behalf by the Commissioners may, between the hours of seven in the forenoon and five in the afternoon, enter into or on any house or land supplied with water as aforesaid in order to examine all pipes, works and fittings connected with the supply of water, and to ascertain whether there be any waste or misuse of such water.

Power to enter premises.

And, if such officer at any such time be refused admittance into such house or land for the purposes aforesaid, or be prevented from making such examination, the Commissioners may forthwith cut off the supply of water from such house or land:

Provided that nothing hereinbefore contained shall authorize an entry into any room appropriated for the *zanana*, or residence of women which, by the custom of the country, is

¹ This section was substituted for the original section 290 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 62, in Vol. III of this Code.
² For a list of rules made under section 290 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part VII.—Of a Water-supply.—Secs. 293-297.)

considered private, unless a notice in writing of not less than four hours be given.

When pipes
are out of re-
pair, Commis-
sioners may
turn off water.

293. In the event of any pipes, works or fittings connected with the supply of water to any house or land being at any time found, on examination by any officer of the Commissioners authorized in that behalf, to be out of repair to such an extent as to cause waste of water, the Commissioners may cause the water to be turned off from such house or land, after giving notice in writing of not less than twenty-four hours, and may recover from the occupier of such house or land the expense incurred for turning off the water.

Supply for
business.

294. The Commissioners may supply water * * *¹ for purposes other than domestic purposes, and may, subject to such charges and rates as may have been fixed by the Commissioners at a meeting, lay down, or allow to be laid down, the necessary pipes and works of such dimensions and character as may be approved by them.

Householder
entitled to
certain supply
of water for
domestic use.

295. The Commissioners at a meeting may determine what quantity of water shall be supplied to the occupier of every house free of further charge for every rupee paid to the Commissioners as water-rate on account of such house.

If the Commissioners have reason to believe that the occupier of any house consumes more water than he is entitled to as aforesaid, it shall be lawful for them to provide a water-meter at their own expense, and to attach the same to the water-pipes of the said house; and any water which may be used over and above the quantity to which the occupier is entitled as aforesaid shall be paid for by him at such rate as the Commissioners at a meeting may determine.

Commis-
sioners may
provide
filtered or un-
filtered water
for latrines.

296. It shall be at the option of the Commissioners to provide filtered or unfiltered water for all latrines and water-closets, and it shall be lawful for them to require that all latrines and water-closets supplied with water, filtered or unfiltered, shall be provided with a cistern of such size and description as the Commissioners shall direct, and all such cisterns shall be put up at the cost of the owner of the house or land so supplied with water.

Water may
be cut off on
neglect to
pay the rate.

297. If any person supplied with water shall neglect to pay the water-rate hereinbefore mentioned at the times of payment thereof, or the charge made for the said water when supplied for other than domestic purposes, the Commissioners may turn off the water from the house or land in respect of which such rate or charge is payable, and may recover the expense of turning off the water from such person:

Provided that the stopping or cutting off the supply of water shall not relieve any person from any penalties or liabilities which he may have incurred.

¹ The words "through a meter", in s. 294, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 83, and are omitted.

[1884.]

(Part VII.—Of a Water-supply.—Secs. 298-304.)

298. The occupier of any house or land in which water supplied by the Commissioners under this Part is, from negligence or other circumstances under the control of the said occupier, wasted, or in whose house or land the pipes, works or fittings for the supply of water shall be found to be out of repair to such an extent as to cause waste of water, shall be liable to a fine not exceeding twenty rupees.

Occupier in whose house water is wasted liable to penalty.

299. Any person otherwise causing waste of water supplied by the Commissioners shall be liable to a fine not exceeding five rupees.

Person causing waste of water liable to penalty.

300. It shall be within the discretion of the Commissioners to allow any person not residing within the limits of the municipality to take or be supplied with water for domestic use, on such terms as the Commissioners in meeting may from time to time prescribe.

Commissioners at their discretion may allow person outside the town to take water.

And any person taking or causing to be taken for use, outside the limits of the municipality, water supplied by the Commissioners, without the permission of the Commissioners, shall be liable to a fine not exceeding fifty rupees.

Penalty.

301. Before a connection for the supply of water from the service-pipes of the Commissioners to any house or land is sanctioned, the Commissioners may cause all the works, pipes and fittings within the said house or land to be inspected by an officer appointed by them in that behalf.

Before connection an officer of the Commissioners to cause all works and pipes to be inspected

And the cost of such inspection shall be payable in advance by the person applying for such connection at such rates as the Commissioners in meeting shall from time to time direct.

And, until such officer shall have certified to the Commissioners that the works, pipes and fittings have been executed and put up in a satisfactory manner, a connection with the Commissioners' service-pipes shall not be permitted.

302. The connection with the service-pipes of the Commissioners, as also the laying of supply-pipes under any public road or thoroughfare, shall be executed by an officer of the Commissioners authorized in that behalf and by no other person.

Connection with service-pipes to be executed only by an officer of the Commissioners.

And the expense of making such connection shall be payable in advance by the person applying for the same, at such rates as the Commissioners in meeting shall from time to time direct.

303. Any person who shall unlawfully flush, draw off, divert or take water from any water-works belonging to, or under the control of, the Commissioners, or from any water or streams by which such water-works are supplied, shall be liable to a fine not exceeding one hundred rupees.

Obstructing or diverting water.

304. No works for introducing a supply of water to any house shall be commenced by the owner without sending a specification and estimate of the cost thereof to the occupier, nor by the occupier without sending such specification and estimate to the owner.

Estimate and specification of works to be sent.

(Part VII.—Of a Water-supply.—Part VIII.—Of Lighting with Gas.—Secs. 305-308.)

Owner to bear the cost of keeping works in repair.

305. Except in the case of a special agreement to the contrary, the owner of any house or land shall bear the expense of keeping all works connected with the supply of water to such house or land in substantial repair:

Provided that nothing in this section shall affect the liabilities of parties under leases executed previous to the extension of this Part to the municipality in which the said house or land is situated.

Tanks, etc., vested in the Commissioners.

306. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works whether made, laid or erected at the cost of the Commissioners or otherwise, and all bridges, buildings, engines, works, materials and things connected therewith, or appertaining thereto, and also any adjacent land (not being private property) appertaining to any public tank shall become vested in the Commissioners.

Application of rates and moneys received from the supply of water.

307. The water-rate and all moneys collected, received or recovered for or in respect of the supply of water or the execution of works, and all fines connected therewith, or in any respect relating to the water-supply, shall be applied by the Commissioners in defraying the expense of making, extending or maintaining the water-works,¹ [in the payment of such a proportionate share of the cost of collection and of general supervision as the Commissioners in meeting may from time to time direct.] in paying the interest of money borrowed for the water-works, and in the liquidation of debts incurred in connection therewith or for some other purpose connected with the supply of water.

PART VIII.

OF LIGHTING WITH GAS.

Municipal Commissioners may submit to the Local Government a plan for lighting.

308. In any municipality in which this Part shall have been introduced in the manner provided in section 222, it shall be lawful for the Commissioners, from time to time, to submit to the Local Government, for its sanction, a plan for lighting with gas any portion of any area situate within the municipal limits, whether so lighted already or not, such portion of the said area having been previously defined by the Commissioners at a meeting held for that purpose.

The Local Government shall cause the plan to be published for one month in the Calcutta Gazette, and the Commissioners shall publish it in the vernacular within the limits of the municipality; and after such publication, and after consideration of any objections which may be raised to it or alterations

¹ The words in square brackets, in s. 307, were inserted by the Bengal Municipal Amendment Act, 1894 (Ben. Act 4 of 1894), s. 84, in Vol. III of this Code.

of 1884.]

(Part VIII.—Of Lighting with Gas.—Secs. 309-312.)

suggested in it, the Local Government may, if satisfied that the lighting proposed in the plan is proper and sufficient, sanction¹ such plan, or may refuse its sanction thereto, or may return it to the Commissioners for alteration in certain particulars to be specified by it, and when altered may sanction it as altered.

The Local Government shall cause its sanction to any plan to be notified in the Calcutta Gazette, and shall at the same time cause the plan sanctioned to be published in the said Gazette.

309. After notification by the Local Government in the last preceding section mentioned, it shall be lawful for the Commissioners to impose an annual rate² not exceeding three *per centum* of their annual value upon all holdings situated within such portion of the said area for the purpose of defraying the whole expense of lighting:

Lighting-rate not exceeding three *per centum* may, after sanction of plan, be imposed on holdings.

Provided that, as regards any portion of the said area already lighted with gas, for the future lighting of which a plan shall have been sanctioned by the Local Government under the provision of the last preceding section, if it shall appear that the estimated proceeds of the said rate at three *per centum* will not be sufficient to defray the whole expense of such lighting, it shall be lawful for the Commissioners to impose a rate sufficient to defray the whole expense of lighting such portion.

Proviso as to portions already lighted.

310. The rate imposed under the last preceding section upon holdings shall be paid by the occupiers thereof by quarterly instalments in advance; but no rate shall be leviable until the lamps in the portion of the area to be lighted shall have been lighted; nor shall any rate be leviable for any quarter or portion of a quarter antecedent to such lighting.

Rate payable by occupiers quarterly in advance.

311. The annual value of holdings shall be the value determined by the Commissioners for the imposition of the rate on holdings under the provisions of Part IV of this Act, or, if no such rate on holdings be imposed, the annual value shall be ascertained and determined in the manner provided in that Part. And the provisions of sections 96 to 109 (both inclusive) and 112 to 130 (both inclusive) shall, *mutatis mutandis*, and so far as they are not inconsistent with the provisions of this Part, be applicable to the assessment and collection of the lighting rate.

Valuation, assessment and collection of lighting-rate.

312. If any holding shall be occupied by more than one tenant holding severally, or shall be of less annual value than one hundred rupees, it shall be lawful for the Commissioners to recover the rate from the owner of such holding.

Power to assess owners in certain cases.

¹ For a list of notifications issued under Section 808 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² As to the imposition of a lighting rate, see also s. 86, *ante*, p. 745.

(Part VIII.—Of Lighting with Gas.—Secs. 313-316.)

Owner to
recover from
the occupier
rates paid by
owner.

313. Whenever any rate shall be recovered from any owner of any holding under the provisions of the last preceding section, it shall be lawful for such owner, if there shall be but one occupying tenant of such entire holding, to recover from such tenant the entire amount of the rate which shall have been so paid by such owner; and, if there shall be one occupying tenant of a part of such holding or more than one occupying tenant of such holding, then to recover from such tenant, or each of such tenants, such sum as shall bear to the entire amount of rate which may have been so recovered from such owner the same proportion as the value of the portion of such holding in the occupation of such tenant bears to the entire value of such holding, subject, however, to the provisions of the next succeeding sections.

Owner may
recover rate
so paid as
rent.

314. Every owner who, under the provisions of the last preceding section, may be entitled to recover any sum from any occupying tenant of any holding or of any portion thereof shall have for the recovery of such sum all such and the same remedies, powers, rights, and authorities as if such sum were rent payable to such owner by such tenant in respect of so much of such holding as may be in the occupation of such tenant.

Occupier
liable to the
rate for time
of occupation
only.

315. Every occupier shall be liable to the lighting-rate for the time of his occupation. When any person shall have been an occupier for a part only of any quarter, he shall be liable only for so much of the rate for that quarter as may be proportionate to the number of days during which he shall have been an occupier.

Excess paid
in advance to
be refunded.

If he shall have paid the rate in advance, the amount paid, in excess of the sum due under this section shall be refunded.

No rate to be
charged
during
vacancy.

No such rate shall be chargeable to any person on account of any unoccupied holding for the time during which it may remain unoccupied:

Notice of
cessation of
occupancy to
be given
within seven
days.

Provided always that, when any person ceases to be the occupier of any holding upon which the rate has been assessed, he shall give the Commissioners notice to that effect within seven days from the date of the cessation of his occupancy. If the occupier fail to give such notice within such period, he shall be liable to the rate assessed on such holding for the whole quarter, although he may have occupied for a part only of such quarter; and, in cases to which the provisions of section 312 apply, the rate assessed on such holding for the whole quarter shall be recoverable from the owner, if such owner has failed to give notice that such holding is unoccupied, within seven days from the date on which it ceased to be occupied.

Unknown
owner or
occupier how
to be
designated.

316. When the name of the owner or occupier of any holding is not known, it shall be sufficient to designate him, in any notice served or proceeding held under this Part, as the owner,

(Part VIII.—Of Lighting with Gas.—Secs. 317-319.)

or the occupier of the holding on which the rate is assessed, and without further description.

317. If the Commissioners deem it necessary for the purposes of this Part to raise, sink or otherwise alter the situation of any gas-pipe or other gas-work laid in any portion of the said area, they may, from time to time, by notice in writing, require the person to whom any such pipe or work belongs, or under whose control it may be, to cause forthwith, or as soon as conveniently may be, any such pipe or work to be raised, sunk or otherwise altered in position, in such manner as the Commissioners may direct:

Situation of gas-pipe or other gas-work to be altered at the expense of the Commissioners.

Provided that such alteration be not such as permanently to injure such pipe or work, or to prevent the gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking, or altering, and full compensation for the damage done thereby, shall be paid by the Commissioners out of the municipal fund as well to the person to whom such pipe or work belongs as to all other persons.

318. If the person to whom any such pipe or work belongs, or under whose control it may be, do not proceed forthwith, or as soon as conveniently may be, after the receipt of such notice, to cause the same to be raised, sunk or altered in such manner as the Commissioners require, the Commissioners may themselves cause such pipe or work to be raised, sunk or altered as they may think fit:

If owner, etc., neglect to make alterations, the Commissioners may cause the same to be made.

Provided that such works be not permanently injured thereby, or the gas prevented from flowing as freely and conveniently as before.

318A. The lighting rate and all the moneys collected, received or recovered for, or in respect of, lighting, or the execution of works, and all fines connected therewith, or in any respect relating to lighting, shall be applied by the Commissioners in defraying the expenses of making, extending, or maintaining the lighting system, in the payment of such a proportionate share of the cost of collection and of general supervision as the Commissioners in meeting may from time to time direct, in paying the interest of money borrowed for lighting, and in the liquidation of debts incurred in connection therewith, or for some other purposes connected with lighting.

Application of rates and moneys received for lighting.

319. The provisions of this Part shall apply, so far as may be possible, to any scheme which may be adopted by the Commissioners of any municipality for lighting the municipality under any system involving the laying of pipes or wires or other similar apparatus.

Provisions applicable to other systems of lighting.

¹ Section 318A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 85, in Vol. III of this Code.

(Part IX.—Of the Construction and Cleansing of Latrines.—
Secs. 320-322.)

PART IX.

OF THE CONSTRUCTION AND CLEANSING OF LATRINES.

Notice to be
issued by the
Commissioners.

320. In any municipality to which the provisions of this Part shall have been extended in the manner prescribed by section 222, the Commissioners may issue a notice declaring that, from a date to be specified in such notice, they will maintain an establishment for the cleansing of * * * private [privies and cesspools] within the limits of the municipality, or any part thereof; and the Commissioners shall make suitable provision accordingly.

Commissioners
may levy fees.

321. When such provision has been made, the Commissioners may levy fees,¹ to be fixed on such scale, with reference to the annual value of holdings [containing dwelling-houses] * * [or privies] within the limits of the municipality, or such part thereof as aforesaid, as the Commissioners at a meeting may from time to time direct;

but the fee shall not exceed three rupees *per annum* where the valuation of the holding amounts to, or is less than, twenty-five rupees;

and the fee on any one holding shall not exceed four hundred and eighty rupees:

Provided that if, on the commencement of this Act, the owners or occupiers of any holding are already under engagement to pay to the Commissioners an annual sum exceeding four hundred and eighty rupees for the cleansing of their premises, such sum, or such other sum as may from time to time be agreed upon between them and the Commissioners, may be levied from them in accordance with the provisions of this Part.

Recovery of
fees.

322. (1) The said fee shall be payable in quarterly instalments by the occupier for the time being of the holding or by the owner thereof if there is no occupier, or under the provisions of the next succeeding section, and shall be recoverable in the manner prescribed for the recovery of the rate on the value of holdings in this Act, and the provisions of section 110 shall be applicable.

¹ The words "public and", in s. 320, were repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 86, and are omitted.

² The words "privies and cesspools", in s. 320, were substituted for the word "latrines" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 86, in Vol. III of this Code.

³ As to the levy of these fees, see also s. 86, *ante*, p. 745.

⁴ The words "containing dwelling-houses", in s. 321, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 87, in Vol. III of this Code.

⁵ The words "or privies", in s. 321, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 15, in Vol. III of this Code.

⁶ This section was substituted for the original section 322 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 88, in Vol. III of this Code.

of 1884.]

(Part IX.—Of the Construction and Cleansing of Latrines.—
 Secs. 323-326.)

(2) Every instalment of the said fee shall be deemed to be due on the first day of the quarter in respect of which such instalment is payable.

¹[(3) The net proceeds of the said fees, after deducting a proportionate share, to be fixed by the Commissioners in meeting, of the cost of the staff employed in collecting and in supervising the collection of the fees and in keeping and auditing the accounts thereof, shall be applied to the maintenance of the establishment referred to in section 320, and generally to carrying out the provisions of this Part.]

(4) A list of the said fees, and of the persons liable to pay the same, shall be published once in every year as prescribed in section 354:

Provided that no such fees shall be levied in respect of any shop or place of business which does not contain any privies or cesspools, when a fee under this Part is levied from the occupier thereof in respect of his dwelling-house within the same municipality.

323. If any holding is occupied in severalty by more than one person, the Commissioners may levy the said fee from the owner of such holding, who may recover from each occupier such sum as shall bear to the entire amount of the fee so levied the same proportion as the value of the part of the holding in the occupation of such person bears to the entire value of such holding.

In certain cases fee may be levied from owner, who may recover from occupier.

324. Every owner who, under the provisions of the last preceding section, is entitled to recover any sum from the occupier of any part of a holding, shall have for the recovery of the said sum all such and the same remedies, powers, rights and authorities as if such sum were rent payable to him by the occupier in respect of such portion of the holding as may be in his occupation.

Owner may recover fees from occupier as rent.

325. The Commissioners at their discretion may compound for any period not exceeding one year, with any occupier or owner as aforesaid of any railway premises or of any premises used as a factory, dockyard, workshop, *coolie* depôt, school, hospital, market, court-house or other similar place, for a certain sum to be paid by such occupier or owner in lieu of such fee.

Commissioners may compound with occupier or owner of certain premises for fee.

326. The Commissioners may, in lieu of the aforesaid fee, levy a rate per head, to be fixed by the said Commissioners at a meeting, on the number of persons living within or habitually resorting to any such railway premises, factory, dockyard, workshop, *coolie* depôt, school, hospital, market, court-house or other similar place.

Commissioners may levy a rate per head.

¹ This sub-section was substituted for the original sub-section (3) by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 16, in Vol. III of this Code.

(Part IX.—Of the Construction and Cleansing of Latrines.—
Secs. 327-333.)

327, 328. (Commissioners may reduce or remit fee.—Penalty). *Rep. by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 89.*

Exemption from prosecution under section 217.

329. No person liable to pay a fee or rate under the provisions of this Part shall be punished with fine for neglecting or refusing to keep his privy in a proper state under section 217, clause (3).

Powers of servants of Commissioners.

330. All servants of the Commissioners employed for the purposes of this Part may, within such hours as may be fixed by the Commissioners, enter on any premises of which the occupier or owner is liable to pay a fee or rate as aforesaid, and do all things necessary for the performance of their duties under this Part.

Commissioners may require nightmen to take out licenses.

331. The Commissioners at a meeting may make an order requiring all persons employed in the removal of sewage within the limits of the municipality, or any part thereof, to take out licenses, and to be servants of the Commissioners for the purpose of removing sewage from premises within the said limits.

The Commissioners at a meeting may grant such licenses subject to such conditions as they may think fit, and may impose fees in respect of the same.

Subject to the approval of the Local Government,¹ the Commissioners may make rules² to define the duties of such persons, and from time to time may alter, add to or repeal such rules; and any breach of such rules shall subject the offender to a forfeiture of license and to a fine not exceeding twenty rupees.

Commissioners may require latrine to be constructed and in default may construct themselves.

332. If the Commissioners think that any latrine or additional or common latrine should be provided for any house or land within the limits of the municipality, the owners of such house or land shall, within fourteen days after notice given by the Commissioners, or within such longer time as the Commissioners may for special reasons allow, cause such latrine to be constructed in accordance with the requisition of such notice; and, if such latrine is not constructed to the satisfaction of the Commissioners within such period, the Commissioners may cause the same to be constructed, and the expenses thereby incurred shall be paid by the owners, and shall be recoverable as provided in section 322.

Commissioners may require list of persons in a holding.

333. The Commissioners may, for the purposes of this Part, by a notice in writing, require the owner or occupier of any holding to furnish, within a time to be specified in the notice, a list of the number of persons residing in, or habitually resorting to, such holding.

¹ As to the delegation to Commissioners of Divisions of the Local Government's powers, see s. 29A, *infra*, p. 734.

² For rules made under s. 881 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1884.]

(Part IX.—Of the Construction and Cleansing of Latrines.—
Part X.—Regulation of Markets.—Secs. 334-339.)

334. Whoever, being the owner or occupier of any hold-
ing, fails to furnish such list within the time specified in such
notice, after being required to furnish the same by the Com-
missioners, shall be liable to a fine not exceeding one hundred
rupees.

334A. The provisions of this Part shall not apply to any
jail, reformatory or lunatic asylum in which an establishment
is maintained for the cleansing of privies and cesspools
therein.

PART X.

REGULATION OF MARKETS.

335. In any municipality to which this Part shall have
been extended in the manner prescribed by section 222, the Com-
missioners at a meeting may provide land for the purpose of
being used as a municipal market, and may defray the cost of
providing such land and of all expenses necessary for the
establishment of such market from the municipal fund, and
may take a lease of any market;

Power to
construct
markets.

and may charge rent, tolls and fees for the right to expose
goods for sale in such market and for the use of shops, stalls
and standings therein.

All such rents, tolls and fees may be recovered as arrears of
tax under the provisions of sections 120 to 129 (both inclusive).

336. No place shall be deemed to be a "municipal market"
within the meaning of the last preceding section, and no place
shall be deemed to be a market to which the following sections
of this Part apply, unless at least thirty shops, stalls or stand-
ings are erected therein for the sale of goods.

Definition of
"municipal
market" and
"market."

337. The Commissioners at a meeting may order that,
within such limits as they may fix, no land shall be used as a
market for the sale of meat, fish, butter, *ghee*, fruits, vegetables
and similar provisions, otherwise than under a license to be
granted by the Commissioners.

Commis-
sioners may
prohibit use
of unlicensed
markets.

338. When the Commissioners at a meeting shall have
issued an order under the last preceding section, they may at a
meeting grant a license for the use of any land as a market for
the sale of provisions as aforesaid within the municipality.

Power to
grant licenses
for markets.

339. Every license granted under this Part shall be liable
to the payment of a fee not exceeding twenty-five rupees,
and shall be in force until the end of the year, and the

Duration of
license and
terms on
which granted.

¹ Section 334A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 90, in Vol. III of this Code.

(Part X.—Regulation of Markets.—Secs. 340-345.)

Commissioners ¹ [shall, as regards markets lawfully established at the time of the extension of this Part to the municipality, and in all other cases] may grant such license, year by year, on the certificate in writing under the hand of the Chairman, annually renewed, that the land is fit to be used as a market for the sale of provisions as aforesaid.

Chairman
bound to
certify fit
places.

340. The Chairman, upon the application in writing of the owner of any land, shall grant such certificate unless the land be defective for the purposes of a market in drainage, ventilation, water-supply or proper width of paths and ways.

Existing
markets.

The owners or lessees of all land used as markets for the sale of provisions as aforesaid at the time of the extension of this Part to the municipality shall be entitled to receive a license for the current year without the certificate required by section 339, but in subsequent years the license shall not be renewed without such certificate.

Licenses to be
registered.

341. Every license under this Part shall be registered in a book to be kept for that purpose by the Commissioners in their office, in which shall be stated—

- (a) the name and address of the owner of the land an market;
- (b) the name and address of the lessee thereof (if any);
- (c) the extent and boundary of the market;
- (d) the description of articles sold therein; and
- (e) the days on which the market will be held.

Transfers to
be registered.

342. Every transfer of interest in any such market shall be registered within two months after the date of transfer.

Unregistered
markets to
be deemed
unlicensed.

343. Any market the license of which, or the transfer of interest in which, shall not have been duly registered under the two last preceding sections, shall be deemed to be land used as a market without a license.

Penalty for
using
unlicensed
market.

344. Whoever, being the owner or occupier of any land, wilfully or negligently permits the same to be used as a market for the sale of meat, fish, butter, *ghee*, fruits, vegetables or similar provisions without license under section 338, shall be liable to a fine not exceeding two hundred rupees for every such offence, and to a further fine not exceeding forty rupees for each day during which the offence is continued after conviction of such offence.

Power to
close
unlicensed
places.

345. The Magistrate, on the application of the Commissioners, may order any land, in respect of which a conviction shall have been obtained under the last preceding section, to be closed as a market-place, and thereupon may take order

¹ The words in square brackets in s. 339 were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 91, in Vol. III of this Code.

of 1884.]

(Part XI.—Of the Registration of Births and Deaths.—
Secs. 346-349.)

to prevent such land being so used; and every person who shall sell or expose for sale meat, fish butter, *ghae*, fruits, vegetables or similar provisions on any land which shall have been so closed, shall be liable for every such offence, to a fine not exceeding ten rupees.

PART XI.

OF THE REGISTRATION OF BIRTHS AND DEATHS.

346. The Commissioners of any municipality, when required by the Local Government to do so, shall provide for the registration of births and deaths within the limits of the municipality in accordance with the provisions of Bengal Act 4 of 1873 (*for registering births and deaths*)¹ or any other similar Act for the time being in force.

Registration of births and deaths.

347. The Local Government may require the Commissioners of any municipality to appoint and maintain at any burning-*ghat* and burial-ground a sub-registrar for the registration of all corpses brought to such burning-*ghat* or burial-ground for cremation or interment.

On regulation of Government, Commissioners to appoint sub-registrars at burning *ghats* and burial grounds.

348. Whenever a sub-registrar shall have been appointed for any burning-*ghat* or burial-ground under the last preceding section, information of the particulars required by section 8 of Bengal Act 4 of 1873¹ to be known and registered may be given in respect of the death of any person whose body is brought to such burning-*ghat* or burial-ground for cremation or interment to such sub-registrar, and information so given shall be deemed to be information given to the registrar of the district as required by the said section.

Information required by Bengal Act 4 of 1873 to be given to such sub-registrar.

Section 9 of Bengal Act 4 of 1873¹ shall be applicable to all sub-registrars appointed under this Act.

349. Whenever a death shall occur in any hospital within the limits of any municipality in respect of which the Local Government has directed that all deaths shall be registered under Bengal Act 4 of 1873,¹ it shall be the duty of the medical officer in charge of such hospital forthwith to send a notice in writing of the occurrence of such death to the Commissioners in such form as the Local Government may prescribe; and in such case no other person shall be required to give

Information of deaths in hospitals.

¹ The Bengal Births and Deaths Registration Act, 1873. It is printed *ante*, p. 331.

(Part *XIA*.—*Extinction and Prevention of Fire*.—
Sec. 349A, 349B.)

information of such death to a registrar under Bengal Act 4 of 1873¹ or to a sub-registrar under this Act.

¹PART *XIA*.

EXTINCTION AND PREVENTION OF FIRE.

Establishment
and maintain-
ance of fire-
brigade

²**349A.** For the prevention and extinction of fire, the Commissioners at a meeting may resolve to establish and maintain a fire-brigade and to provide any implements, machinery, or means of communicating intelligence which the Commissioners may think necessary for the efficient discharge of their duties by the brigade.

Power of fire-
brigade and
other person
for suppres-
sion of fires.

³**349B.** (1) On the occasion of a fire in a municipality, any Magistrate, any Municipal Commissioner, the Secretary to the Commissioners, any member of a fire-brigade maintained by the Commissioners, then and there directing the operations of men belonging to the brigade, and (if directed so to do by a Magistrate or by a Municipal Commissioner) any Police Officer above the rank of constable may—

- (a) remove or order the removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire, or for saving life or property;
- (b) close any street or passage in or near which any fire is burning;
- (c) for the purpose of extinguishing the fire, break into or through, or pull down, or use for the passage of any house or other appliance, any premises;
- (d) cause mains and pipes to be shut off so as to give greater pressure of water in the place where the fire has occurred;
- (e) call on the persons in charge of any fire-engine to render such assistance as may be possible;
- (f) generally take such measures as may appear necessary for the preservation of life or property.

(2) No person shall be liable to pay damages for any act done by him under sub-section (1) of this section in good faith.

¹ The Bengal Births and Deaths Registration Act, 1878. It is printed *ante*, p. 281.

² Part *XIA* (ss. 349A and 349B) was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1904), s. 92, in Vol. III of this Code.

of 1924.]

(Part XI B.—Sanitary Officers.—Secs. 349C-349E.)

PART XI B.

SANITARY OFFICERS.

349C. (1) The Local Government may, by notification published in the Calcutta Gazette, announce its intention to declare this Part to be in force in any Municipality.

Power to
declare this
Part to be in
force in any
Municipality.

(2) If the Commissioners or any ratepayer of any such Municipality object or objects to this Part being declared in force in the Municipality, they or he may, within a period of two months from such publication, submit such objection in writing, through the District Magistrate, to the Local Government; and the Local Government shall consider all objections so sent.

(3) After the expiration of the said period, the Local Government, if no objections have been so sent, or if it considers that the objections so sent are insufficient, may, by a like notification, make the proposed declaration.

(4) The substance of every notification under sub-section (1) or sub-section (2) shall be translated, deposited, posted and proclaimed, within the Municipality affected, in the manner prescribed by section 354.

349D. (1) Notwithstanding anything contained in section 46, the Commissioners of every Municipality in which this Part is in force shall from time to time, at a meeting, appoint for the Municipality—

Appointment
of Sanitary
Officers.

(a) a Health Officer, or

(b) a Health Officer and one or more Sanitary Inspectors,
or

(c) one or more Sanitary Inspectors,

as the Local Government may, by notification in the Calcutta Gazette, direct; such Health Officer to be of such class, and such Sanitary Inspectors to possess such qualifications, as may be so directed.

(2) The provisions of sub-section (1) shall not apply to any Municipality the income of which falls below ten thousand rupees a year.

349E. The Local Government shall from time to time fix the salaries to be paid to Health Officers and Sanitary Inspectors out of the Municipal Fund, and the allowances to be granted to them during absence on leave.

Salary and
allowances of
Sanitary
Officers.

¹ Part XI B (sections 349C to 349 H) was inserted by the Bengal Municipal (Sanitary Officers) Act, 1914 (Ben. Act 2 of 1914), s. 2, in Vol. III of this Code

(Part XIB.—Sanitary Officers.—Part XII.—
Miscellaneous.—Secs. 349F-350).

Power to
make rules.

¹ **349F.** The Local Government may from time to time make rules prescribing—

- (a) the qualifications of candidates for employment as Health Officers and Sanitary Inspectors respectively; and
- (b) the division of Health Officers and Sanitary Inspectors into classes or grades according to their qualifications.

Unwhole-
some water.

¹ **349G.** When a Health Officer has been appointed for any Municipality, the power conferred by section 199A shall be exercisable by him as well as by the Chief Civil Medical Officer of the district.

Application
of Act to
Sanitary
Officers.

¹ **349H.** Every section of this Act which relates to Municipal Officers or servants shall, so far as it may be applicable, apply to the officers referred to in section 349D:

Provided that no Health Officer appointed thereunder shall be dismissed without the sanction of the Local Government.

PART XII.

MISCELLANEOUS.

Power to
make by-laws.

350. The Commissioners of any municipality may from time to time, at a meeting which shall have been convened expressly for the purpose, and of which due notice shall have been given, frame such by-laws¹ as they deem fit, not being inconsistent with this Act, or with any other general or special law, for—

- ² (a) regulating traffic, and for the prevention of obstructions and encroachments, and of nuisances on or near roads;
- ³ (aa) prohibiting the letting-off of fire-arms, fire-works, fire-balloons or bombs, except (i) with the permission of the Commissioners or a member of the Ward

¹ Sections 349F to 349H are new—see foot-note on p. 847, *ante*.

² For a list of by-laws made under s. 350 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Clause (a) and clauses (b) to (f) were substituted for the words "giving effect to the objects of this Act" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 98, in Vol. III of this Code.

⁴ Clause (aa) was inserted by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 17, in Vol. III of this Code.

of 1884.]

(Part XII.—Miscellaneous.—Sec. 350A.)

Committee or a municipal officer empowered by the Commissioners in this behalf, and (ii) on payment of fees at such rates as may be sanctioned by the Commissioners at a meeting;

- ¹(b) regulating the use of, and the prevention of nuisances in regard to, public water-supply, bathing and washing-places, streams, channels, tanks and wells;
- ¹(c) regulating the disposal of sewage, offensive matter, carcases of animals and rubbish, and the management of privies, drains, cesspools and sewers;
- ¹(d) regulating cremations and burials and the disposal of corpses;
- ¹(e) preventing nuisances affecting the public health, safety or convenience; and
- ¹(f) giving effect to the objects of this Act;

and may by such by-laws impose on offenders against the same such reasonable penalties as they think fit not exceeding the sum of fifty rupees for each offence, and in case of a continuing offence, a further penalty not exceeding twenty rupees for each day after written notice of the offence from the Commissioners.

Additional
power to
make by-laws
in hilly
municipalities.

350A. The Commissioners of a municipality wholly or in part situated in a hilly tract may, at a meeting, in addition to such by-laws as they may make under the last preceding section, make, repeal or alter by-laws

for regulating or prohibiting the cutting or destroying of trees or shrubs, or the making of excavations or removal of soil or quarrying, where such regulation or prohibition appears to the Commissioners to be necessary for

350A. (1) The Commissioners, at a meeting which has been convened expressly for the purpose and of which due notice has been given, may, from time to time, make by-laws⁴ for enforcing, prohibiting or regulating the doing of any act which may, in the opinion of the Commissioners, affect the stability or security of any hillside or bank or any immovable property thereon.

(2) In particular, and without prejudice to the generality of the foregoing power, the

Additional
power to
make by-laws.

¹ See foot-note * on page 848, *ante*.

² This section 350A was inserted by the Bengal Municipal (Amendment) Act, 1884 (Ben. Act 4 of 1884), s. 74, in Vol. III of this Code. It applies to all Municipalities in Bengal except Darjeeling.

³ These sections 350A and 350B were substituted for the section 350 A printed opposite, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 20, in Vol. III of this Code.

⁴ For by-laws made under this s. 350 A, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part XII.—Miscellaneous.—Sec. 350A.)

any or all of the following purposes:—

- (a) the maintenance of a water-supply;
- (b) the preservation of the soil;
- (c) the prevention of landslips;
- (d) the formation of ravines or torrents;
- (e) the protection of land against erosion or the deposit thereon of sand, gravel or stones.

Commissioners at a meeting as aforesaid may make by-laws for all or any of the following purposes, namely:—

- (a) prohibiting or regulating the making of excavations, the cutting of hillsides or banks and the removal of soil from hillsides or banks;
- (b) prohibiting or regulating quarrying;
- (c) prohibiting or regulating the removal of stones from hillsides, banks, *jhoras* or sites of landslips;
- (d) for preventing or regulating the grazing or straying of cattle on hillsides or banks;
- (e) for preventing the straying of poultry;
- (f) for enforcing or regulating the cutting, trimming or removal of trees, shrubs, bamboos, bushes or hedges bordering on, overhanging or obstructing any road or drain, or causing or being likely to cause damage or injury to any road or drain or to any person using any road;
- (g) for enforcing, regulating or prohibiting the cutting or destroying of trees, shrubs, bamboos or plants;
- (h) for enforcing, regulating or prohibiting

of 1884.]

(Part XII.—Miscellaneous.—Sec. 350B.)

the making of, or for regulating the maintenance of, gardens or garden-terraces;

(j) for prohibiting or regulating the making of holes or the placing of loose earth for or around trees, shrubs, bamboos or plants;

(k) for enforcing or regulating the planting and maintenance of particular kinds of trees, shrubs, bamboos or plants on land, where, in the opinion of the Commissioners, such enforcement or regulation is necessary or desirable with a view to the better protection of any hillside or bank from landslips.

(3) The word "cattle," as used in clause (d), shall have the same meaning as in the Cattle-trespass Act, 1871.¹

***350 B.** The Commissioners may, by any by-law made under section 350A, declare that any person committing a breach of any such by-law, or failing to comply with any notice issued thereunder, shall be liable to fine which may extend to fifty rupees and to further fine which may extend to twenty rupees for each day after conviction during which the offence is continued. •

Fines for breach of by-laws made under section 350A.

1 of 1871

¹ Printed in the General Acts, 1888-78, Ed. 1909, p. 159.

² See foot-note * on page 848, ante.

(Part XII.—Miscellaneous.—Secs. 351, 351A.)

Confirmation
of by-laws.

351. By-laws made under this Act shall not take effect unless and until they have been submitted to, and confirmed by, the Local Government; nor shall such by-laws be confirmed—

unless one month at least before the making of the application notice of the intention to apply for confirmation has been given in one or more of the local newspapers circulated within the municipality to which such by-laws relate, or, if there be no such newspapers, then in such manner as the Commissioners may direct; and

unless for one month at least before any such application a copy of the proposed by-laws has been kept at the office of the Commissioners, and has been open during office hours there at the inspection of the inhabitants of the municipality to which such by-laws relate, without fee or reward.

The Commissioners shall, on the application of any inhabitant of the municipality, furnish him with a copy of such proposed by-laws, on payment of four annas for every hundred words contained in the copy.

Local
Government
may cancel its
confirmation
of any by-law.
Power to
make rules
as to business
and affairs.

² [The Local Government may cancel its confirmation of any such by-law, and thereupon the by-law shall cease to have effect.]

351A. (1) The Commissioners at a meeting may from time to time make, repeal or alter rules⁴ as to—

- (a) the time and place of their meetings, the business to be transacted at meetings, and the manner in which notice of meetings shall be given;
- (b) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings;
- (c) the custody of the common seal;
- (d) the division of duties among the Commissioners, and the powers to be exercised by sub-committees or members to whom particular duties are assigned;
- (e) the persons by whom receipts shall be granted for money received under this Act;
- (f) [the duties, appointment, leave, furling, suspension and removal of municipal officers and servants;]
- (g) and other similar matters.

¹ The paragraph of s. 351, which was repealed by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 95, is omitted.

² This paragraph was added to s. 351 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 95, in Vol. III of this Code.

³ Section 351A was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 96, in Vol. III of this Code.

⁴ For lists of rules made under s. 351 A for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. 2, Pt. VI.

⁵ This clause (f) was substituted for the former clause (f) by the Bengal Municipal (Amendment) Act, 1896 (Ben. Act 2 of 1896), s. 18, in Vol. III of this Code.

of 1884.]

(Part XII.—Miscellaneous.—Secs. 351 B, 351 C.)

(2) Rules made under this section, consistent with this Act, shall be subject to the sanction of the Local Government, and shall, if sanctioned, be published in such manner as the Local Government may direct, and shall have the force of law.

¹351B. (1) The Local Government may make rules² to regulate any of the matters referred to in sections 201F, 229A, 237 and 248E, and may by such rules alter, add to, or cancel any of the rules contained in Schedules A, B, C and D, respectively.

Power to make rules for the amendment of Schedules A, B, C and D

(2) All references in this Act to any of the aforesaid Schedules shall be construed as referring to such Schedule as for the time being amended in exercise of the powers conferred by sub-section (1).

¹351C. The Commissioners, or any officer in receipt of a salary of not less than fifty rupees *per mensem*, who may be authorized by them in that behalf, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection, survey, measurement, valuation or inquiry or execute any work which is authorized by any of the clauses enacted by the Darjeeling Municipal Act, 1900, or by any rule or by-law made under any such clause, or which it is necessary, for any of the purposes or in pursuance of any of the provisions of any such clause, rule or by-law, to make or execute:

Power of entry to inspect, survey or execute work.

Ben. Act 1 of 1900.

Provided as follows:—

- (a) except when it is in this Act otherwise provided, no such entry shall be made between sunset and sunrise;
- (b) except when it is in this Act otherwise provided, no dwelling-house, and no hut which is used as a dwelling-place, shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier of at least six hours' previous written notice of the intention to make such entry;
- (c) sufficient notice shall in every instance be given, even when any premises

¹ Sections 351B to 351H were inserted, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 21, in Vol. III of this Code.

² Under this power, rule 1 in Schedule B and rule 21 (e) in Schedule C have been amended and new rules 8A, 8B and 8C have been inserted in Schedule C—see foot-notes on pages 871, 878 and 879, *post*.

(Part XII.—Miscellaneous.—Secs. 351D-351F.)

may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove to some part of the premises where their privacy need not be disturbed;

- (d) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

Appeal to
specially
appointed
Engineer.

¹351D. (1) The Local Government may, by notification in the Calcutta Gazette, appoint² an Engineer to hear appeals under this Act.

(2) An appeal shall lie to the said Engineer from any order (not being an order apportioning expenses) or requisition made under section 201C, sub-section (4), section 210, section 210B, section 210C, section 224B, sub-section (3), section 228, section 239, clause (b), section 243, clause (b), section 244E, sub-section (2), section 244H, sub-section (1) or sub-section (3), section 244L, clause (b), section 244Q, sub-section (2), section 244V, section 248A, section 248B, section 248C or section 248D.

Appeal to
Commissioner
of the
Division.

¹351E. An appeal shall lie to the Commissioner of the Division from any order apportioning expenses incurred in pursuance of section 228, section 248B, section 248C, or section 248D.

Limitation
of time for
appeal.

¹351F. Every appeal under section 351D or section 351E must be presented within a period of thirty days after the date of the order or requisition against which the appeal is made:

Provided as follows:—

- (a) if in any case the said period expires on a day when the office of the aforesaid Engineer or Commissioner is closed, the appeal may be presented on the day that the said office is re-opened;
- (b) any appeal may be admitted after the expiration of the said period when the appellant satisfies the appellate

¹ See footnote ¹ on page 853, ante

² See the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI

of 1884.]

(Part XII.—Miscellaneous.—Secs. 351G-353.)

authority that he had sufficient cause for not presenting the appeal within such period.

¹**351G.** (1) In dealing with any appeal preferred to him under section 351E, the Commissioner shall be assisted by two assessors, who shall be selected and summoned by him for each appeal, or group of appeals, from a list to be prepared annually by the Deputy Commissioner:

Assessors in appeals to Commissioner of the Division.

Provided that, if any assessor so summoned fails to appear, the appeal may be heard in his absence.

(2) The assessors, if present, shall be consulted by the Commissioner, and their opinion shall be recorded in writing; but the Commissioners shall not be bound to conform to their opinions.

¹**351H.** (1) If the Engineer appointed under section 351D, or the Commissioner of the Division, rejects any appeal preferred to him under this Act, he shall, by written order, specifically state the grounds for such rejection.

Record of decision on appeal or reference.

(2) The said Engineer shall, when deciding any reference made to him under this Act, specifically state in writing the grounds for his decision.

(3) A copy of all orders passed by the said Engineer or Commissioner on any such appeal, or by the said Engineer on any such reference, shall forthwith be forwarded by him to the Commissioners, who shall thereupon inform the appellant, or the person who made the reference, as the case may be, of such orders.

352. The Commissioners may direct any prosecution for any public nuisance, and may order proceedings to be taken for the recovery of any penalties under this Act, and for the punishment of any persons offending against the same, and may order the expenses of such prosecution or other proceedings to be paid out of the municipal fund.

Commissioners may direct prosecution for public nuisance, etc.

353. No prosecution for an offence under this Act or any by-law made in pursuance thereof shall be instituted without the order or consent of the Commissioners, and no such prosecution shall be instituted except within '[six] months next after the commission of such offence, unless the offence is continuous in its nature, in which case a prosecution may be

No prosecution for an offence under this Act to be instituted without consent of Commissioners.

¹ See foot-note ¹ on page 858, *ante*.

² The word "six", in s. 353, was substituted for the word "three" by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 97, in Vol. III of this Code.

(Part XII.—Miscellaneous.—Sects. 354-357.)

instituted within ¹[six] months of the date on which the commission or existence of the offence was first brought to the notice of the Chairman of the Commissioners:

Provided that the failure to take out any license under this Act shall be deemed to be a continuing offence until the expiration of the period for which such license is required to be taken out.

Publication
of By-laws,
etc.

354. Every by-law, order, notice or other document directed to be published under this Act shall be written in, or translated into, the vernacular of the district, and deposited in the office of the Commissioners, and a copy shall be posted up in a conspicuous position at such office, and in such other public places as the Commissioners may direct.

And a public proclamation shall be made throughout such municipality by beat of drum, notifying that such copy has been so posted up, and that the original is open to inspection in the office of the Commissioners.

Levy of fines.

355. Fines under this Act may be imposed by a Magistrate on any person who is convicted of the offence to which the fine attaches, and may be levied under the provisions of the Code of Criminal Procedure, 1882.²

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How notice,
etc., may be
served.

356. Every notice, bill, form, summons or notice of demand under this Act may be served personally on or presented to the person to whom the same is addressed;

or be left at his usual place of abode with some adult male member or servant of his family;

or, if it cannot be so served, presented or delivered, may be put on some conspicuous part of his place of abode;

or of the land, building or other thing in respect of which the notice, bill, form, summons or notice of demand is intended to be served.

Service of
notice on
owner or
occupier of
land.

357. When any notice is required to be given to the owner or to the occupier of any land, such notice, addressed to the owner or occupier, as the case may require, may be served on the occupier of such land, or otherwise in the manner in the last preceding section mentioned:

Provided that, when the owner and his place of abode are known to the Commissioners or other authorities issuing the notice, they shall, if such place of abode be within the limits of their authority, cause every notice required to be given to the owner of any land to be served on such owner, or left with some adult male member or servant of his family;

and if the place of abode of the owner be not within such limits, they shall send every such notice by post in a registered

¹ See foot-note ² on page 855 ante.

² Act 19 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1886 (5 of 1886), and this reference should now be taken to that Code—see s. 8 (7) thereof, in General Acts, 1896-1908, Ed. 1909, p. 40.

(PART XII.—Miscellaneous.—Secs. 358-362.)

cover addressed to his place of abode, and such service shall be deemed to be good service of the notice.

When the name of the owner or occupier is not known, it shall be sufficient to designate him as "the owner" or "the occupier" of the land in respect of which the notice is served.

358. No assessment or rating of tax on property shall be invalid for error or defect of form, and it shall be enough in any assessment, valuation or rating for the purpose of making such tax if the property so assessed or valued is so described as to be generally known, and it shall not be necessary to name the owner or occupier thereof.

Tax not
invalid for
want of form.

359. Every person to whom a license has been granted under this Act shall, at all reasonable times, while such license shall remain in force, if thereunto required by the authorities which granted the license or by any person authorized by them in that behalf, produce such license to the said authorities or to the person so authorized.

Holder of
license to
produce it
when
required

Whoever fails to produce his license when required to produce the same by any person authorized under this section to demand the production thereof shall be liable to a fine not exceeding one hundred rupees.

Penalty.

360. All costs, expenses, fees, tolls or other moneys due under this Act to the Commissioners of any municipality may be recovered in the manner provided in sections 120 to 129 (both inclusive).

Recovery of
moneys due
to the Com-
missioners.

361. If money be due under this Act in respect of any holding from the owner thereof, on account of any tax, expenses or charges recoverable under this Act, and if the owner of such holding is unknown or the ownership thereof is disputed, the Commissioners may publish twice, at an interval of three months, a notification of sale of such holding, and, after the expiry of not less than three months from the date of the last publication, unless the amount recoverable be paid, may sell such holding to the highest bidder, who shall, at the time of sale, deposit the full amount of the purchase-money.

Power to sell
unclaimed
holdings for
money due.

After deducting the amount due to the Commissioners as aforesaid, the surplus sale-proceeds (if any) shall be credited to the municipal fund, and may be paid on demand to any person who establishes his right to the satisfaction of such Commissioners or in a Court of competent jurisdiction.

Any person may pay the amount due at any time before the completion of the sale, and may recover such amount by a suit in a Court of competent jurisdiction from any person beneficially interested in such property.

362. The Commissioners may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

Compensation
for damage

(Part XII.—Miscellaneous.—Secs. 363-365.)

No action to be brought against the Commissioners or their officers until after one month's notice of cause of action.

363. No suit shall be brought against the Commissioners of any municipality, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Commissioners and also (if the suit is intended to be brought against any officer of the said Commissioners or any person acting under their direction) at the place of abode of the person against whom such suit is threatened to be brought, stating the cause of suit and the name and place of abode of the person who intends to bring the suit;

and, unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action; and not afterwards.

If the Commissioners or their officer, or any person to whom any such notice is given, shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

Chaukidari
chikirdan
lands.

364. Notwithstanding anything contained in section 3 of Bengal Act 6 of 1870¹ (an Act to provide for the appointment, dismissal and maintenance of village *chaukidars*), the provisions of Part II of the said Act, relating to *chaukidari chikirdan* lands, shall be applicable to all such lands which have been assigned before the commencement of the said Act for the benefit of any part of a municipality, and all duties and functions which the *panchayat* of a village or any member thereof is required to discharge under the provisions of the said Part shall be discharged, and all powers which the *panchayat* of a village or any member thereof is authorized to exercise under the said Part shall be exercised by the Commissioners of such municipality, and the proceeds of the assessment on such lands made under the said Part shall be paid into the municipal fund, and shall be available for the purposes of such fund.

Police-officer
to report
offences and
arrest persons
refusing to
give name
and residence.

365. All police-officers shall give immediate information to the Commissioners of the municipality of any offence committed against this Act "[or any by-law made in pursuance thereof]."

When any person, in the presence of a police-officer, commits, or is accused of committing, any such offence, and refuses, on demand of a police-officer, to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained; and he

¹ The Village Chaukidari Act, 1870. It is printed, &c., p. 175.

² The words "or any by-law made in pursuance thereof", in s. 365, were inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 96, in Vol. III of this Code.

(Part XII.—Miscellaneous.—Secs. 366, 367.)

shall, within twenty-four hours from the arrest, be forwarded to the nearest Magistrate, unless before the expiration of that time his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

¹ [Upon the recommendation of the Commissioners, any servant of the Commissioners in receipt of a salary of not less than ten rupees *per mensem*, when empowered in that behalf by a general or special order of the District Magistrate, may exercise the powers of a police-officer under this section.]

15 of 1860.

366. If any person employed under this Act (not being a public servant within the meaning of section 21 of the Indian Penal Code)² shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice to any person with the Commissioners or with any public servant or with the Government in the discharge of his official duties, he shall be punished with imprisonment, either simple or rigorous, as provided in section 53 of the Indian Penal Code³ for a term which may extend to three years, or with a fine not exceeding five thousand rupees, or with both.

Penalty on
officers, etc.,
taking un-
authorised
fee.

15 of 1860.

367. Nothing in this Act contained shall be construed to— Saving clause

- (a) render lawful any act or omission on the part of any person which, but for this Act, would by law be deemed to be a nuisance;
- (b) exempt any person guilty of nuisance from a suit in respect thereof;
- (c) affect any enactment not hereby expressly repealed.

¹ This paragraph was added to section 365 by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 98, in Vol. III of this Code.

² Printed in the General Acts, 1884-67, Ed. 1909, p. 218.

*(The First Schedule.)***THE FIRST SCHEDULE.***(See sections 8 and 17.)**Municipalities in which the Commissioners shall be appointed
by the Local Government.*

District.			Municipality.
Khulna	...	...	[Chanduria.] ¹
Ditto	...	...	Debhatta.
Darjeeling	...	...	Darjeeling.

*[Entries which are inapplicable to the Presidency of Fort William
in Bengal are omitted.]*

Bakarganj	...	...	Nalchiti.
Ditto	...	...	Jhalakati.
Chittagong	...	...	Cox's Bazar.

*[Entries which are inapplicable to the Presidency of Fort William
in Bengal are omitted.]*¹ Schedule 1 is referred to in sections 8, 17 and 66. For orders issued under those sections and affecting this Schedule, see foot-notes, *ante*, pp. 716, 721 and 788.² The Chanduria Municipality was abolished by notification dated 24th April, 1896, published in the Calcutta Gazette, 1896, Pt. II, p. 81.

(The Second Schedule.)

THE SECOND SCHEDULE.

*(See sections 8 and 23.)**Municipalities in which the Chairman shall be appointed by the Local Government.*

District.		Municipality.
Burdwan	...	Dainhat.
Hooghly	...	Uttarpara.
24-Parganas	...	(Suburbs of Calcutta.) Rep. by the Calcutta Municipal Consoli- dation Act, 1888 (Ben. Act 2 of 1888).
Ditto	...	Baruipur.
Nadia	...	Santipur.
Ditto	...	Birnagar.
Ditto	...	Mahespur.
Murshidabad	...	Kandi.
Darjeeling	...	Darjeeling.

[Entries which are inapplicable to the Presidency of Fort William in Bengal are omitted.]

Chittagong ... Cox's Bazar.

[Entries which are inapplicable to the Presidency of Fort William in Bengal are omitted.]

¹ Schedule II is referred to in sections 8, 23 and 66. For orders issued under those sections and affecting this Schedule, see foot-notes. *ante*, pp. 716, 722 and 734.

(The Third Schedule.—Forms A, B.)

THE THIRD SCHEDULE

FORM A.—(See section 112.)

Notice to be published of the preparation of the List of Assessment on Persons.

BENGAL MUNICIPAL ACT, 1884.

(Section 112.)

MUNICIPALITY OF

Whereas an assessment list of the tax upon persons occupying holdings has been deposited in the office of the Commissioners as required by section 112 of the Bengal Municipal Act, 1884, notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the office of the said Commissioners during office hours on any day not being a close holiday, and that the several persons whose names are included in the said assessment are hereby required to pay the quarterly instalments set opposite to their names with regularity at the office appointed by the Commissioners for the receipt of the same, or to the tax-collector or other officer authorized to receive payment, the first payment, to be made on the first day of (), and every subsequent payment on or before the first day of (), the first day of () and the first day of () or in default thereof any arrear that may be due will be realized by distress and sale of the movable property belonging to the defaulter or which may be found on the holding in respect of which such defaulter is assessed, and by such other proceedings as are allowed by law.

Ben Act 8
of 1884.*Dated this day of*

A. B.,
Chairman of Commissioners.

FORM B.—(See section 112.)

Notice to be published of the preparation of the Valuation and Rating List of Holdings.

BENGAL MUNICIPAL ACT, 1884.

(Section 112.)

MUNICIPALITY OF

Whereas a valuation and rating list of the rate on the annual value of holdings has been deposited in the office of the

[1884.]

(The Third Schedule.—Form B.)

Commissioners as required by section 112 of the Bengal Municipal Act, 1884, notice is hereby given that the said list is open to the inspection of all persons desiring to inspect the same at the office of the said Commissioners during office hours on any day not being a close holiday; and that the several owners of the holdings included therein are hereby required to pay the quarterly instalment set opposite to their names with regularity at the office appointed by the Commissioners for the receipt of the same, or to the tax-collector or other officer authorized to receive payment, the first payment to be made on the first day of () and every subsequent payment on or before the first day of (), the first day of () and the first day of (), and in default thereof any arrear that may be due will be realized by distress and sale of the movable property belonging to the defaulter, or which may be found on the holding in respect of which the valuation is made, and by such other proceedings as are allowed by law.

Ben. Act 8 of
1884.*Dated this day of*

A. B.,

Chairman of Commissioners.

(The Fourth Schedule.—Forms A, B.)

THE FOURTH SCHEDULE.

FORM A.—(See section 120.)

Notice of demand under section 120.

BENGAL MUNICIPAL ACT, 1884.

To

MUNICIPALITY OF

Take notice that the sum of Rs. , being the amount due from you as shown in the accompanying bill, is hereby demanded from you, and that if you do not within fifteen days pay the same to an officer authorized to receive payment, or into the office of the Municipal Commissioners, the amount together with costs will be levied by distress and sale of your goods and chattels, or otherwise as provided by law.

A. B.,

Chairman of Commissioners.

(The following note will be added at the foot of the above notice in those cases only in which the notice is to be addressed to a person who has not already paid one instalment of the tax at the rate at which the demand is made.)

NOTE.—If you have any objection to make against this demand, you may, instead of paying the amount which is hereby demanded, present a petition to the Commissioners praying for a review of the amount assessed (or rated). Such petition must be presented within fifteen days of the service of this notice, otherwise it will not be received. If you present such petition, no amount will be levied from you until the Commissioners shall have passed an order on your petition; but after fifteen days from such order the amount due by you, with such costs as the Commissioners may direct, will be levied unless it has been previously paid.

FORM B.—(See section 121.)

TABLE OF FEES PAYABLE UPON DISTRAINTS UNDER THIS ACT.

Sums distrained for.				Fee.	
				Rs. A.	
Under 1 rupee	...	...	...	0	4
1 and under 5 rupees	...	...	...	0	8
5 " 10	...	...	...	1	0
10 " 15	...	...	...	1	8
15 " 20	...	...	...	2	0
20 " 25	...	...	...	2	8
25 " 30	...	...	...	3	0
30 " 35	...	...	...	3	8
35 " 40	...	...	...	4	0

100

THE FOURTH SCHEDULE—*contd.*

FORM B— <i>concl'd.</i>				RS. A.
40 and under 45	rupees	...	...	4 8
45 "	50 "	...	...	5 0
50 "	60 "	...	...	6 0
60 "	80 "	...	...	7 8
80 "	100 "	...	...	9 0
Above 100	"	...	...	10 0

The above charge includes all expenses, including the service of notice of demand, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man. If the amount demanded be paid or the warrant discharged before the sale is held so that no sale is necessary, one-fourth of the fees specified in the above table shall be remitted.

FORM C.—(See section 122.)

Distress Warrant.

BENGAL MUNICIPAL ACT, 1884.

(Section 122).

To (here insert the name of the officer charged with the execution of the warrant).

Whereas _____ of _____ has not paid or shown sufficient cause for the non-payment of the sum of _____ rupees due for taxes (or rates) mentioned in the margin, although the said sum has been duly demanded in writing from the said _____, and fifteen days have elapsed since the service of the notice of demand; This is to require you to distrain the movable property of the said _____ wherever it may be found within the municipality, except ploughs, plough-cattle, tools or implements of trade or agriculture, or any other movable property, subject to the same exceptions which may be found within the holding specified in the margin to the amount of the said sum of _____ and the further sum of _____ to defray the charges of taking, keeping and selling such property, and, if within ten days next after such distress the said sum of _____ shall not be paid, to sell the said property, and having paid and deducted out of the proceeds of the sale the said sum of _____ and the charges of taking, keeping and selling such property, to return the surplus (if any) on _____

*(The Fourth Schedule.—Forms D, E.)*THE FOURTH SCHEDULE—*contd.*FORM C—*concl'd.*

demand to the person whom you shall have found in possession of the said property, and, if no demand be made, to pay the same to the Commissioners. If distress cannot be made of sufficient property of the said , you are to certify the same to us in returning this warrant.

A. B.,

Chairman of Commissioners.

FORM D.—*(See section 122.)**Form of Inventory and Notice.*

BENGAL MUNICIPAL ACT, 1884.

(Section 122).

(State particulars of goods seized.)

Take notice that I have this day seized the property specified in the above inventory for the sum of due for the taxes (or rates) mentioned in the margin, and that unless you pay to me or into the office of the Commissioners of the said sum of and the further costs of this distraint as specified below, within ten days from the day of the date of this notice, the property will be sold.

*(Signature of the officer executing
the warrant of distress.)*

Costs of distraint—

Date

FORM E.—*(See section 124.)*

*Register of distraints of property and sales held on account of
arrears for the month of in*

1. Name of defaulter.
2. Number on register and specification of the holding on account of which the arrear is due.
3. Amount of arrear due.
4. Amount of costs and penalty.
5. Total amount to be realized.
6. Inventory of property seized under distress.

of 1884.]

*(The Fourth Schedule.)*THE FOURTH SCHEDULE—*concl'd.*FORM E—*concl'd.*

7. Date of distress.
8. Date of sale.
9. Detail of articles sold.
10. Amount realized on each article.
11. Purchaser's name.
12. Total amount realized.
13. Amount paid into the Commissioners' office on account of the arrear due with date.
14. Amount paid into the Commissioners' office on account of costs and penalties.
15. Surplus proceeds of sale remaining after deducting the amount of arrears, costs, penalties due.
16. How the surplus was disposed of, with date of such disposal.
17. Balance of arrear still remaining unrealized, if any.
18. On what date such remaining balance was realized or written off by authority.
19. Remarks (explaining why the property seized was released without sale if not eventually sold, etc., etc.)

(The Fifth Schedule.)

THE FIFTH SCHEDULE.

(See sections 86 and 131.)

TAX ON CARRIAGES AND ANIMALS.

	Per quarter.	
	Rs.	A.
For every 4-wheeled carriage drawn by two horses	4	8
For every 4-wheeled carriage drawn by one horse or a pair of ponies under 13 hands	3	0
¹ [For every 4-wheeled carriage drawn by one pony under 13 hands	2	8]
For every 2-wheeled carriage	2	8
For every horse	2	0
For every pony under 13 hands, and for every mule and donkey	0	12
For every elephant	6	0
For every camel	2	0

Carriages the wheels of which do not exceed twenty-four inches in diameter are exempted.

¹ The portion printed in square brackets was inserted by the Bengal Municipal (Amendment) Act, 1894 (Ben. Act 4 of 1894), s. 99, in Vol. III of this Code.

(The Sixth Schedule.)

THE SIXTH SCHEDULE.

*(See sections 2 and 4.)**Act of the Governor General in Council.*

Number and year.	Subject.	Extent of repeal.
21 of 1857 ...	To make better provision for the order and good government of the station of Howrah.	Sections 4, 5, 6, 8, 9, 16, 17, 24, 33, 34, 35, 36, 37, 39, 46.

Acts of the Lieutenant-Governor of Bengal in Council.

Number and year.	Subject.	Extent of repeal.
5 of 1873 ...	To provide for the levy of a lighting rate in Howrah.	The whole Act.
5 of 1876 ...	To amend and consolidate the law relating to municipalities.	Ditto.
6 of 1878 ...	To provide for the cleansing and construction of latrines in first class municipalities.	Ditto.

(Schedule A.)

SCHEDULE A.

RULES AS TO PRIVATE ROADS AND BRIDGES.

(See sections 201O, 201F and 351B.)

Part I.—Roads.

1. (1) Every application for permission to construct, re-construct or alter a private road other than a foot-path must be accompanied by—

- (a) a plan of the road, showing cross-sections,
- (b) type-drawings of all bridges to be provided or already provided for the road, and
- (c) a description of the provision which it is intended to make or which already exists in respect of retaining-walls and revetments (if any) and drains

(2) Every application for permission to construct, re-construct or alter a private footpath must be accompanied by a full description of the path.

2. (1) A private road must be so constructed as to have a slope inwards towards the hillside.

(2) Such slope must be not less than the gradient of the road.

3. (1) Whenever the Commissioners so direct, the outer edge of a private road must be protected by retaining-walls, and the inner cutting by revetments.

(2) Such walls and revetments must be of such number and must be placed in such positions as the Commissioners may direct, and must be constructed in accordance with the rules contained in Schedule D.

4. A stone-lined drain must be provided on the inner side of a private road, where such side is not rock.

Part II.—Bridges.

5. Every application for permission to construct, re-construct or alter a private bridge must be accompanied by drawings of the bridge.

Applications
for permission
to construct,
re-construct or
alter a private
road.

Slope.

Retaining
walls and
revetments.

Drain.

Application
for permission
to construct,
re-construct or
alter a private
bridge.

¹ Schedules A to D were added, for the Darjeeling Municipality, by the Darjeeling Municipal Act, 1900 (Ben. Act 1 of 1900), s. 22, in Vol. III of this Code.

of 1884.]

(Schedules A, B.)

6. A private bridge must be constructed so as to leave sufficient waterway to pass the *maximum* discharge of the channel spanned by the bridge.

Waterway.

7. The flooring placed in the bed of the channel under a private bridge must, as far as practicable, be laid at the same slope as that of the channel.

Slope of flooring under bridge.

8. When a pocket for the deposit of *debris* is cut in the hillside above a private bridge, otherwise than in solid rock, such pocket must be lined with masonry walling.

Pocket above bridge.

9. Where a small drain is crossed by a private road, a wooden or iron grating must, if the Commissioners so direct, be laid over the drain, instead of a covered culvert.

Substitution of gratings for culverts.

SCHEDULE B.

RULES AS TO PRIVATE DRAINS.

(See sections 224B, 229A and 351B.)

1. Drains for sullage water shall be constructed with half or one-third glazed earthenware tile inverts and cement sides.

Construction of drains for sullage water.

2. (1) Drains for surface water only may be constructed either of dry rubble masonry or of any other material approved by the Commissioners, and may be either rectangular or U-shaped or V-shaped in section.

Construction of drains for surface water.

(2) Such drains shall not be connected with any drain carrying sullage water or sewage.

3. Except with the written permission of the Commissioners, no covered drain shall be constructed, and no open drain shall be covered in.

Drains to be open.

4. The sectional area of every drain shall be subject to the approval of the Commissioners.

Sectional area.

5. (1) Drains must discharge into the nearest water-channel or public drain, unless in any case the Commissioners otherwise direct.

Discharge

¹ See foot note ¹ on page 870, *ante*.

² This rule 1 in Sch. B. was substituted for the original rule 1 by Notification No. 896 T.—M., dated the 31st May, 1912, published in the Calcutta Gazette, 1912, Pt. I B., p. 97. The original rule ran thus:—

³ Drains for sullage water must be constructed—

(a) with round or half-round tiles bedded in concrete, or
(b) with U-shaped stone masonry set in lime mortar and plastered over the inner surface with Portland cement, or
(c) with U-shaped stone concrete."

(Schedule C.)

(2) The outfall of a drain into a water-channel or public drain must be protected and guided in such manner as the Commissioners may direct.

(3) Where the drain of a private road joins the drain of a public road, the former drain must be so directed or so protected by strike-boards as to minimize the risk of damage to the public drain or road.

6. A masonry drain must be placed round every masonry or framed building or block of such buildings, and the site must be sloped from all sides towards such drain.

Drain round
masonry or
framed
building.

SCHEDULE C.

RULES AS TO THE USE OF BUILDING-SITES AND
THE EXECUTION OF BUILDING WORK.

(See sections 238, 239, 240, 243, 244B, 244C, 244J,
244L, 244-O, 272E and 351B.)

Part 1.—Definitions.

Definitions.

1. In this Schedule, unless there is any thing repugnant in the subject or context,—

- (a) the word “base,” as applied to a wall, means the underside of the course immediately above the footings of the wall;
- (b) “nogging” means lime or cement concrete, or brick-work in lime or cement mortar, which is filled in between the frames of iron or wood in a framed building;
- (c) “party-wall” means a wall forming part of a building and used or constructed to be used for the support and separation of adjoining buildings belonging to different owners or constructed or adapted to be occupied by different persons; and
- (d) “topmost storey” means the uppermost storey in a building, whether constructed wholly or partly in the roof or not, and whether constructed, used or adapted to be used for human habitation or not.

¹ See foot-note ¹ on page 870, ante.

(Schedule C.)

2. (1) When any application is made for approval of a site for the erection, re-erection or material alteration of a masonry or framed building, or when any application for permission to erect, re-erect or materially alter a hut involves the approval of a site, the Commissioners shall refer the application to the Municipal Engineer, who shall certify--

Certificate by
Engineer as
to site.

(a) whether, in his opinion, the site is reasonably secure from danger from hillside slips either from above or from below, or could be made secure as aforesaid by the addition of protective works, and

(b) whether, in his opinion, if the site be built upon as proposed, the stability or security of any hillside or bank or any immovable property thereon would be threatened by the building, or could be ensured by the addition of protective works.

(2) If the said Engineer certifies that the site is not secure as aforesaid, or that the stability or security of any hillside, bank or property would be threatened by the proposed building, or that the addition of protective works is necessary,

and if the Commissioners consider that the site ought nevertheless to be approved, or that the said protective works need not be added,

the Commissioners shall refer the matter to the Engineer appointed under section 351D, and shall deal with the application in accordance with his decision.

(3) If protective works have to be added as aforesaid to any site, the site shall not be approved until such works have been constructed and have received the written approval of the Commissioners.

Part III.—Buildings generally.

3. Every building erected or re-erected, and every material alteration made to a building, must have such architectural features as to prevent the building being, in the opinion of the Commissioners, unsightly or unsuitable to its surroundings.

(Schedule C.)

Shops.

3A. No shop shall be erected or re-erected in the vicinity of dwelling-houses without the written sanction of the Commissioners.

Building in crowded localities.

3B. No building shall be erected or re-erected in any locality which, in the opinion of the Commissioners, certified in writing, is so crowded with buildings as to be prejudicial to sanitation.

Compensation to owner debarred from re-erecting a building.

3C. The Commissioners shall make full compensation to the owner for any damage which he may sustain in consequence of being debarred by rule 3A or rule 3B from re-erecting a building.

Buildings of more than three storeys.

4. (1) Except with the special sanction of the Commissioners, no building shall be erected or re-erected so as to have more than three storeys.

(2) When any such sanction is given, the materials and method of construction of the building must be such as may be prescribed by the Commissioners.

Level of floor.

5. The floor or lowest floor of every building erected or re-erected from the ground level must be constructed at such level as will admit of—

- (a) the construction of a drain sufficient for the effectual drainage of the building and placed at such level as will admit of the drainage being led into some drain at the time existing or projected, and
- (b) there being a ventilated air space of at least six inches in depth between the underside of the floor joists and the ground level.

Building over drain.

6. A building shall not be placed over any drain, except with the written permission of the Commissioners.

Part IV.—Masonry buildings and framed buildings generally.

Foundation.

7. The foundation of a masonry or framed building must rest on solid ground or rock.

Footings for walls.

8. (1) The projection of the bottom of the footings on each side of each wall of a masonry

¹ Rules 3A, 3B and 3C were inserted by Notification No. 1262 M., dated the 29th February, 1904, published in Calcutta Gazette, 1904, Part II, p. 44.

(Schedule C)

or framed building must be at least one-fourth of the thickness of the wall at its base.

(2) The height from the bottom of such footings to the base of each wall must be at least two-thirds of the thickness of the wall at its base.

(3) Except where the foundation is a rock, the bottom of such footings shall not be less than three feet below the ground level.

(4) When a wall is built on rock, footings may be omitted if the surface of the rock is properly cleaned and stepped to receive the first course of masonry.

9. The external and cross-walls of a masonry or framed building of one storey must be built of—

External and cross-walls of a one-storeyed building.

- (a) stone or brick bedded in lime or cement mortar,
- (b) stone or brick bedded in mud mortar, or
- (c) timber or iron framing filled in with nogging, or covered with corrugated or plain iron, or planked :

Provided that, when stone or brick bedded in mud mortar is used, those portions of the walls around doors and windows, and under the wall-plates for one foot in depth, and in the foundations up to plinth level, must be of stone or brick bedded in lime or cement mortar.

10. (1) The external and cross-walls of the lower storey of a masonry or framed building of two storeys must be built of—

External and cross-walls of a two-storeyed building.

- (a) stone or brick bedded in lime or cement mortar, or
- (b) timber or iron framing filled in with nogging or covered with corrugated or plain iron :

Provided as follows :—

- (i) if any of the said external walls do not support any masonry wall in the upper storey, they may be built of nogging instead of as prescribed in clause (a); and
- (ii) if any of the said cross-walls are intended for partitions only and do not support any wall in the upper storey, they may be built of nogging or of timber framing planked with boards.

(Schedule C.)

(2) The external and cross-walls of the upper storey of a masonry or framed building of two storeys must be built of the materials specified in clause (a) or clause (c) of rule 9.

External and cross-walls of a three-storeyed building.

11. (1) The external and cross-walls of the lowest storey of a masonry or framed building of three storeys must be built of—

(a) stone bedded in lime or cement mortar, or

(b) iron framing covered with corrugated-iron or filled in with nogging;

and the external and cross-walls of the storey next above the lowest storey of such a building must be built of—

(i) stone or brick bedded in lime or cement mortar, or

(ii) timber or iron framing filled in with nogging or covered with corrugated-iron:

Provided that if any of the cross-walls in either of the said storeys are intended for partitions only, and do not support any wall in the storey above, they may be built of planked timber framing.

(2) The external and cross-walls of the top-most storey of a masonry or framed building of three storeys must be built of—

(i) stone or brick bedded in lime or cement mortar, or

(ii) timber or iron framing, filled in with nogging, or covered with corrugated or plain iron, or planked.

Party-walls.

12. The party-walls of a masonry or framed building must be built of stone or brick bedded in lime or cement mortar for their full height: and, if the Commissioners so direct, must be carried up, of a thickness of not less than nine inches, above the roof, flat or gutter to such a height as will give a distance of at least eighteen inches measured at right angles to the slope of the roof above the highest part of the roof, flat or gutter.

Damp-proof course.

13. (1) Every wall of a masonry or framed building must have a damp-proof course at or above the level of the ground-floor.

(2) Such damp-proof course may consist of wet lead, asphalt, slates laid in cement, vitrified bricks, or any other durable material impervious to moisture.

of 1884.]

(Schedule C.)

14. (1) The roof of every masonry or framed building must be constructed of corrugated or plain iron, lead, slates or tiles. Roofs.

Provided that, with the written permission of the Commissioners, any such roof may be constructed of shingles securely attached to a frame of iron or timber.

The rise of the roof shall not in any case be less than one-eighth of the span.

15. The floors of every masonry or framed building must be constructed to bear safely the maximum load to be carried, such load being taken, in the case of planked floors, as not less than sixty pounds per square foot, including the weight of the floor. Floors.

16. (1) All beams and girders in a masonry or framed building must be supported by a breadth of brick-work, stone or other solid substance sufficient to secure their stability. Beams and girders.

(2) The bearing of a beam or girder on a wall shall not, without the sanction of the Commissioners, be less than three-fourths of the thickness of the wall.

17. All iron posts, girders or joists or other iron work used for the support of any portion of a masonry or framed building must be of such quality and strength as are approved by the Commissioners. Iron-work.

Part V.--Dwelling-houses.

18. (1) Except with the written permission of the Commissioners, no dwelling-house or part thereof shall be erected, re-erected or extended so that any external wall thereof is in any direction at a distance less than— Free passage about dwelling-houses.

- (a) twenty feet from any part of any adjacent building, or
- (b) ten feet from the boundary of the holding on which the house stands, or
- (c) four feet from the side of any public road, or
- (d) three feet from the toe of any bank or retaining-wall.

(2) The said permission shall not be granted unless the Commissioners are satisfied that notice of the intention to apply for it has been given to the neighbouring proprietor or his agent, and shall not be refused except on sanitary or other public grounds.

(Schedule C.)

(3) If the said permission be granted, the Commissioners shall send a copy thereof both to the applicant and to the said neighbouring proprietor.

Out-houses.

19. Every person who erects or re-erects out-houses, or ranges or blocks of out-houses, whether the same are to be used as dwellings or stables or for any other purpose in connection with a dwelling-house, must build the same—

- (a) so that they may stand in regular lines with a free passage or way in front of and between every two lines, of such width as the Commissioners may direct, for ventilation and for facilitating scavenging; and
- (b) with such and so many privies, latrines or urinals, and such means of drainage, as the Commissioners may require; and
- (c) at such level as will suffice for the means of drainage required by the Commissioners.

Ventilation of rooms of dwelling-house.

20. Every room in a dwelling-house—

- (a) must be so constructed that the whole of at least one side of the room either is an external wall or abuts on a verandah, or
- (b) must have suitable and sufficient skylights and roof ventilation.

Size and ventilation of inhabited rooms.

21. Every room in a dwelling-house which is intended to be used as an inhabited room—

- (a) must be in every part not less than eight feet in height from floor to ceiling or, in the case of a room in the roof, must have an average height of not less than seven feet from floor to ceiling;
- (b) must have a clear superficial area of not less than eighty square feet; and
- ¹(c) must be ventilated by means of at least one window or aperture, other than a door, opening directly into a verandah or into the open air and having

¹ This clause (c), in rule 21 in Sch. C, was substituted for the original clause (c), by Notification No. 896 T.-M., dated the 31st May, 1912, published in the Calcutta Gazette, 1912, Pt. II, p. 97. The original clause ran thus:—

"(c) must be ventilated by means of doors or windows which open directly into a verandah or the external air, and which have an aggregate opening, clear of the framing, equal to not less than one-tenth of the superficial area of the floor of the room."

of 1884.]

(Schedule C.)

an aggregate area not less than one-tenth of the superficial area of the floor space of the room.

Part VI.—Applications for approval of sites for, and for permission to erect, re-erect or materially alter, masonry buildings or framed buildings.

22. (1) Every application for approval of a site for the erection or re-erection of a masonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the position of the site, the number assigned to it in the valuation and rating list, its dimensions, and such other particulars as may be prescribed by the Commissioners.

(2) The site-plan sent with such an application must be drawn to a scale of not less than one-fiftieth of an inch to a foot, must be sent in duplicate, and must show—

- (a) the boundaries of the site;
- (b) the position of the site in relation to neighbouring roads, hillsides and banks;
- (c) the angle and the character of the hillsides or banks occupied by and abutting on the site;
- (d) whether the site is wooded or not;
- (e) what springs and *jhoras* (if any) there are on the site;
- (f) what excavations (if any) it is proposed to make on or near the site;
- (g) what protective works (if any) it is proposed to construct on, or for the support of, the site;
- (h) the name of the road (if any) in which the building is proposed to be situated;
- (j) the position of the building in relation to—
 - (i) the boundaries of the site, and
 - (ii) all adjacent roads, buildings and premises within a distance of forty feet of the site, or
 - (iii) (if there is no road within a distance of forty feet of the

(Schedule C.)

- site) some existing or projected road;
- (k) the means of access to the building from the road;
 - (l) the position, form and dimensions of privies, urinals, drains, stables, cattle-sheds, cow-houses and other appurtenances of the building, and the inclination of such drains;
 - (m) free passage or way in front of the building;
 - (n) space to be left about the building to secure a free circulation of air, admission of light, and access for scavenging purposes;
 - (o) the width and level of the road (if any) in front and of the road (if any) at the rear of the building; and
 - (p) such other particulars as may be prescribed by the Commissioners.

(3) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed building in the manner indicated in clause (b) of section 238, in so far as the said sub-rules are capable of application to the intended alteration.

23. (1) Every application for permission to erect or re-erect a masonry or framed building must be written on a printed form (to be supplied by the Commissioners free of charge), and must state the description of the building, its dimensions, and such other particulars as may be prescribed by the Commissioners.

(2) The plan of the building and the elevations and sections accompanying such an application must be neatly and accurately drawn to a scale of not less than one-eighth of an inch to a foot, must be fully dimensioned, and must be sent in duplicate, and the said plan must show—

- (a) the levels and width of the foundation of the building;
- (b) the level of the lowest floor of the building; and
- (c) the level of all open spaces in the building or premises and the plinth

Application to be sent and particulars furnished by person intending to erect, re-erect or materially alter a masonry or framed building.

(Schedule C.)

level of buildings with reference to the level at the centre of the nearest road.

(3) The specification accompanying such an application must comprise full information as to the following particulars, namely:—

- (i) the materials and method of construction to be used for external walls, party-walls, foundations, roofs, floors, fire-places and chimneys;
- (ii) the manner in which roof and house drainage and the surface drainage of land will be disposed of;
- (iii) the manner, if any, in which it is proposed to pave the open spaces in the building or premises, and the slope to which the surface is to be made in each case;
- (iv) the purpose for which it is intended to use the building;
- (v) if the building is intended to be used as a dwelling-house for two or more families, or as a place for carrying on any trade or business in which more than twenty people may be employed, or as a place of public resort, the means of ingress and egress;
- (vi) such other particulars as may be prescribed by the Commissioners.

*Explanation to clause (iv).—*If it is intended to use the building or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house, the fact must be expressly stated.

(4) The foregoing sub-rules shall apply also in the case of applications for permission to materially alter a masonry or framed building, in so far as they are capable of application to the intended alteration.

24. (1) The plans, elevations and sections referred to in section 240 must be signed clearly and in a prominent place by the owner of the building.

Signature of plans, elevations and sections.

(2) If the said documents have been prepared by an Architect or an Engineer, they may be signed by him as well as by the owner.

25. (1) Within thirty days after the receipt of any application under section 238 or section

For receipt further information.

(Schedule C.)

240, the Commissioners may require the applicant to furnish them with any information which has not already been given in the documents received.

(2) If any information required under sub-rule (1) is, in the opinion of the Commissioners, incomplete or defective, they may, within thirty days after the receipt of the same, require further information to be furnished.

(3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within three months, the application received under section 238 or section 240, as the case may be, shall be deemed not to have been made.

Modification,
signature and
disposal of
lands.

26. (1) When the Commissioners have approved any site-plan or given permission to execute any work, any modifications which they may have directed to be made in such site-plan or in any of the approved plans of the work shall be entered on both copies of the plan, and the copies shall be signed on behalf of the Commissioners.

(2) One of the signed copies of each plan shall then be returned to the applicant, and the other shall be kept in the office of the Commissioners.

Part VII.—Huts.

Prohibition
of projection
or dropping of
water over
road or
passage.

27. Every hut abutting on a road or passage, whether public or private, must be constructed so as not to project over, or admit of water from, the roof falling upon or injuring the road or passage.

Part VIII.—Applications for permission to erect, re-erect or materially alter huts.

Application
for permission
to erect,
re-erect or
materially
alter a hut.

28. (1) Every application for permission to erect, re-erect or materially alter a hut must be written on a printed form (to be supplied by the Commissioners free of charge) and must contain a description of the site.

(2) If it is intended to use the hut or any part thereof for any of the purposes specified in section 261, or as a stable, cattle-shed or cow-house, the fact must be expressly stated in the said application.

Power to
require further
information.

29. (1) When any application under section 244 has been received, the Commissioners may require the applicant to furnish them

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(Schedule D.)

with any additional information which they may consider it necessary to obtain.

(2) If any information required under sub-rule (1) is, in the opinion of the Commissioners, incomplete or defective, they may require further information to be furnished.

(3) If any requisition made under sub-rule (1) or sub-rule (2) is not complied with within two months, the application received under section 244 J shall be deemed not to have been made.

¹ SCHEDULE D.

RULES AS TO REVETMENTS, RETAINING-WALLS,
TOE-WALLS, TURFING AND SLOPING.

(See sections 248 E and 351 B and
Schedule A, rule 3.)

*Part I.—Revetments, retaining-walls and
toe-walls.*

1. (1) The foundation of every revetment, retaining-wall or toe-wall must be taken down to original and firm soil or rock; and the bed-line must be cut at right angles with the face of the revetment or wall. Foundation and bed-line.

(2) The building of any revetment, retaining-wall or toe-wall shall not be commenced until the foundation and bed-line have been inspected and approved by the Commissioners.

2. (1) A revetment, retaining-wall or toe-wall may be made of dry rubble masonry, but must, in any case in which the Commissioners so direct, be made of lime masonry. Materials.

(2) No stone used shall be of greater height than its length or breadth.

3. All stones used must be laid on their natural beds, and must be arranged so as to break joint as far as may be possible. Laying of stones.

4. (1) One through bonding-stone or line of bonding-stones must be inserted at intervals of five feet in each course, and at points intermediate between the corresponding bonding-stones of the course below. Bonding.

¹ See last-note ¹ on page 878, note.

(Schedule D.)

Solidity.	(2) Any of the bonding-stones which do not extend right through the wall must overlap each other for one-third of their length.
	5. Every revetment, retaining-wall or toe-wall must be built up solid to full section; and spawls or chips shall not be used for filling the courses unless their use is unavoidable.
Weep-holes.	6. Weep-holes must be provided at intervals of four feet horizontally and four feet vertically, beginning with the course immediately above ground level.
Section.	7. (1) Where a revetment, retaining-wall or toe-wall does not exceed twenty feet in height and is not surcharged, the mean thickness of the revetment or wall above the footings shall not be less than one-third of the vertical height of the revetment or wall, measured from the top of the footings: Provided that the width at the top shall in no case be less than one foot six inches and need not in any case exceed three feet six inches.
	(2) Where a revetment, retaining-wall or toe-wall does not exceed twenty feet in height and is surcharged, sub-rule (1) shall apply, the height being assumed, for the purposes of that sub-rule, to be one and-a-half times the vertical height.
	(3) Where a revetment or retaining-wall exceeds twenty feet in height, detailed designs must be submitted to the Commissioners, and the sections must be such as the Commissioners may approve.

Part II.—Sloping.

Angle.

8. When, in pursuance of any requisition or direction made or given by the Commissioners, any slope is to be reduced, the angle to which the slope is reduced shall not be greater than 37°.

BENGAL ACT 1 OF 1885
(THE BENGAL FERRIES ACT, 1885).

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BENGAL ACT 1 OF 1885.

(THE BENGAL FERRIES ACT, 1885).¹

(27th May, 1885.)

An Act to regulate Ferries in Bengal.

Whereas it is expedient to regulate ferries within the territories subject to the Lieutenant-Governor of Bengal²; It is enacted as follows:—

Preamble.

Preliminary.

1. This Act may be called the Bengal Ferries Act, 1885.

Short title.

2. It shall extend to all the territories subject to the Lieutenant-Governor of Bengal:³

Extent and commencement of Act.

[And it shall come into force on such date⁴ as the Lieutenant-Governor may, by notification in the Calcutta Gazette, appoint in this behalf].

3. Regulation 6 of 1819 and Bengal Act 1 of 1866 are hereby repealed; but all determinations, declarations, orders and rules made, engagements entered into and securities taken under such Regulation and Act shall be deemed to be respectively made, entered into and taken under this Act.

Regulation 6 of 1819 and Ben. Act 1 of 1866 repealed.

4. Nothing in this Act contained shall apply to any ferry deemed or declared to be a municipal ferry under the provisions of the Bengal Municipal Act, 1881.⁵

Act not to apply to municipal ferries.

5. In this Act, unless there be something repugnant in the subject or context,—

Interpretation.

“Commissioner” means the Commissioner of a Division:

“Commissioner.”

“ferry” includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge, a temporary bridge, and a landing stage:

“Ferry.”

“notification” means a notification published in the Calcutta Gazette:

“Notification.”

“private ferries” includes all ferries other than those declared to be public ferries, or established as such, under section 6 of this Act.

“Private ferries.”

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1885, Pt. IV, p. 39; and for Proceedings in Council, see *ibid*, Supplement, pp. 546, 558, 567 and 578.

² LOCAL EXTENT.—This Act extends to the whole of the former Province of Bengal—see s. 2, but its application is barred in the Chittagong Hill-tracts, by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

³ This includes the present Presidency of Fort William in Bengal and other territory.

⁴ The Act came into force on the 1st August, 1885—see Calcutta Gazette, 34th June 1885, Pt. I, p. 510.

⁵ As to ferries in municipalities, see ss. 148 to 156 of the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), *ante*, pp. 762 to 764.

(Part I.—Public Ferries.—Secs. 6-9.)

PART I.

PUBLIC FERRIES.

Power to
declare,
establish,
define and
discontinue
public ferries

6. It shall be lawful for the Lieutenant-Governor¹ from time to time² to—

- (a) declare what ferries shall be deemed public ferries, and the respective districts in which, for the purposes of this Act, they shall be deemed to be situate;
- (b) take possession of a private ferry and declare it to be a public ferry;
- (c) establish new public ferries where, in his opinion, they are needed;
- (d) define the limits of any public ferry;
- (e) change the course of any public ferry; and
- (f) discontinue any public ferry which he deems unnecessary.

Every such declaration, establishment, definition, change or discontinuance shall be made by notification:

Provided that, when any alteration in the course or in the limits of a public ferry is rendered necessary by changes in the river on which such ferry is established, such alteration may be made, by an order in writing, by the Magistrate of the district.

Control of
public ferries
vested in the
Magistrate of
the district.
Superintend-
ence of
public ferries.

7. The control of all public ferries shall be vested in the Magistrate of the district, subject to the direction of the Commissioner.

8. The immediate superintendence of every public ferry shall be vested in the Magistrate of the district in which such ferry is situated, or in such other officer as the Lieutenant-Governor¹ may, from time to time, either by name or by official designation, appoint.

And such Magistrate or officer shall, except when the tolls at such ferry are leased, make all necessary arrangements for the supply of boats for such ferry, and for the collection of the authorized tolls leviable thereat.

Ferry tolls
may be leased
by auction.

9. The tolls of any public ferry may, from time to time, be leased by public auction for such term as the Magistrate of the district in which such ferry is situated may, with the approval of the Commissioner, direct.

The Magistrate of the district or the officer authorized by him to conduct such auction may, for sufficient reason to be recorded in writing, refuse to accept the offer of the highest

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.
² For lists of orders made under section 6, clauses (a) to (f), for Bengal as constituted on the 1st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.—Public Ferries.—Secs. 10-14.)

bidder, and may accept any other bid, or may withdraw the tolls from auction.

The lessee of the tolls of every ferry which have been leased under this section shall execute a contract setting forth the conditions on which the tolls of such ferry are to be held, and shall give security for its due fulfilment.

Execution of contract by lessee.

10. When the tolls of a public ferry have been duly leased, the lessee and every servant of the lessee shall be deemed to be legally bound to conform to the rules made under this Act for the management and control of such ferry.

Lessee of the tolls of a public ferry and his servants bound to conform to rules.

11. On the requisition of the Magistrate of the district the person in charge of a public ferry situate in such district shall maintain at one or more places, in addition to the place at which the said public ferry is established, and within two miles therefrom, such number of subsidiary ferries as may seem to the Magistrate to be necessary for the public convenience; and all the provisions contained in this Act in regard to the management and control of public ferries shall be deemed applicable to any subsidiary ferry maintained under the requisition of the Magistrate.

Provision for the establishment of subsidiary ferry.

12. All arrears due by the lessee of the tolls of a public ferry on account of his lease;

Recovery of arrears from lessee.

any pecuniary forfeiture for breach of contract inserted in the deed of contract or conditions of sale by public auction; and

all sums due from the lessee on the surrender of his lease under section 14,

may be recovered from the lessee or his surety (if any) as a demand under Bengal Act 7 of 1880 or any other Act¹ at the time being in force for the recovery of public demands.

13. The lease of the tolls of any public ferry shall be liable to be cancelled at once by the Magistrate of the district in which such ferry is situated, if it shall appear to such Magistrate that the lessee has failed to make due provision for the convenience or safety of the public within fifteen days after being required to do so by a notice in writing from such Magistrate.

Power to cancel lease.

14. The lessee of the tolls of a public ferry may surrender his lease on the expiration of one month's notice in writing to the Magistrate of the district in which such ferry is situated of his intention to surrender such lease, and on payment of such reasonable compensation as the Magistrate may, with the approval of the Commissioner, in each case direct.

Surrender of lease.

¹See now the Bengal Public Demands Recovery Act, 1913 (Ben. Act. 3 of 1913), printed in Vol. III of this Code.

(Part I.—Public Ferries.—Sec. 15.)

Power to
make rules
in regard to
public ferries.

15. The Magistrate of the district, with the approval of the Commissioner, may from time to time make rules¹ consistent with this Act, —

- (a) for the management of all public ferries within such district, and for regulating the traffic at such ferries;
- (b) for regulating the time and manner at and in which the terms in which, and the person by whom, the tolls of such ferries may be leased by auction;
- (c) for compensating persons who have compounded for tolls payable for the use of any such ferry when such ferry has been discontinued before the expiration of the period compounded for; and
- (d) generally, to carry out the purposes of this Act:

And, when the tolls of a ferry have been leased under section 9, such Magistrate may, from time to time, with such approval as aforesaid, make additional rules consistent with this Act, —

- (e) for collecting the rents payable for the tolls of such ferries;
- (f) for regulating the returns of traffic to be, from time to time, submitted by the lessee of such ferries;
- (g) in cases in which the communication is to be established by means of a bridge of boats, pontoons or rafts, or a swing-bridge, flying-bridge or temporary bridge, for regulating the time and manner at and in which such bridge shall be constructed and maintained, and opened for the passage of vessels and rafts through the same, and
- (h) in cases in which the traffic is conveyed in boats, for regulating—
 - the number and kinds of such boats and their dimensions and equipment;
 - the number of the crew to be kept by the lessee for each boat;
 - the maintenance of such boats in good condition;
 - the hours during which, and the intervals within which, the lessee shall be bound to ply; and
 - the number of passengers, animals and vehicles, and the bulk and weight of other things that may be carried in each kind of boat at one trip;

and may, from time to time, with such approval as aforesaid, repeal or alter such rules.

¹ For a list of rules made under section 15 for Bengal as constituted on the 31st March, 1912, see Bengal Public Statutes and Orders 1912 Vol. I Pt. VI

[1885.]

(Part I.—Public Ferries.—Secs. 16-18.)

Rules made under this section shall be subject to the control of the Lieutenant-Governor¹, and shall be published in the Calcutta Gazette in such manner as the Lieutenant-Governor¹ directs, and shall thereupon have the force of law.

16. No person shall, except with the sanction of the Magistrate of the district, maintain a ferry to or from any point within a distance of two miles from the limits of a public ferry:

Private ferry not to ply within two miles of public ferry without sanction.

Provided that, in the case of any specified public ferry, the Lieutenant-Governor¹ may, by notification,² reduce or increase the said distance of two miles to such extent as he thinks fit:

Provided also that nothing hereinbefore contained shall prevent persons keeping boats to ply between two places, one of which is without, and one within, the said limits, when the distance between such places is not less than three miles, or shall apply to boats which the Magistrate of the district expressly exempts from the operation of this section.

17. Claims for compensation for any loss sustained by any person in consequence of a private ferry being taken possession of, or a new public ferry, or subsidiary ferry, being established under section 6 or section 11, shall be inquired into by the Magistrate of the district in which such ferry is situated, who shall, with the approval of the Commissioner, award compensation to any person who may appear justly entitled thereto.

Claims for compensation and what amount to be awarded.

Such compensation shall be calculated upon an estimate of the annual net profit actually realized by such person from such ferry on an average of the five years next preceding such declaration, and shall in no case exceed the amount of fifteen times such net annual profit.

18. Tolls, according to such rates as may, from time to time, be fixed by the Magistrate of the district with the approval of the Commissioner, shall be levied on all persons, animals, vehicles and other things³ crossing any river by a public ferry and not employed or transmitted on the public service:

Tolls.

Provided that the Lieutenant-Governor¹ may, from time to time, declare that any persons, animals, vehicles or other things shall be exempt from payment of such tolls.

Where the tolls of a ferry have been leased under section 9, any such declaration, if made after the date of the auction, shall entitle the lessee to such abatement of the rent payable

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 5, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of orders made under this proviso to section 6 for Bengal as constituted on the 21st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ So much of section 18 as provides for the exemption from payment of tolls of any persons, animals, vehicles or other things which are exempted by sections 5 of the Indian Tolls (Army) Act, 1901 (2 of 1901), is repealed by s. 8 of that Act. For further exemptions from tolls, see sections 3 and 4 of the said Act, in General Acts, 1894-1906, Ed. 1906, p. 508.

(Part I.—Public Ferries.—Part II.—Private Ferries.—
Part III.—Penalties and Criminal Procedure.—Secs. 19-23.)

in respect of the tolls as may be fixed by the Magistrate of the district under this section.

Table of tolls.

19. The lessee or other person authorized to collect the tolls of any public ferry shall affix a table of such tolls, legibly written or printed in the vernacular language, and also, if the Commissioner so directs, in English, in some conspicuous place near the ferry :

List of tolls.

and shall be bound to produce, on demand, a list of the tolls signed by the Magistrate of the district or such other officer as he appoints in this behalf.

Tolls, rents, compensation and fines how to be appropriated.

20. Except as provided by section 35, all tolls, rents and compensation received by or on behalf of the Government, and all fines levied under this Act, shall be appropriated in the first instance towards the payment of all charges incurred in carrying out the provisions of this Act, and the surplus, if any, shall be credited to such fund as the Lieutenant-Governor¹ may from time to time direct.

Compounding for tolls.

21. It shall be lawful for the Magistrate of the district in which a public ferry is situated, with the approval of the Commissioner, from time to time to fix rates at which any person may compound for the tolls payable for the use of such ferry.

PART II.

PRIVATE FERRIES.

Power to make rules in regard to private ferries.

22. The Commissioner may from time to time make rules² consistent with this Act, for the maintenance of order, and for the safety of passengers and property, at private ferries situated in his division.

Rules made under this section shall be subject to the control of the Lieutenant-Governor,¹ and shall be published in the Calcutta Gazette in such manner as the Lieutenant-Governor¹ directs, and shall thereupon have the force of law.

PART III.

PENALTIES AND CRIMINAL PROCEDURE.

Penalty for breach of provisions as to table of tolls, list of tolls and return of tolls.

23. Every lessee or other person authorized to collect the tolls of a public ferry, who neglects to affix and keep in good order and repair the table of tolls mentioned in section 19,

¹ Now the Governor, in Council of Fort William in Bengal, see the Bengal, Bihar and Orissa and Assam Legislative Decrees, 1912 (7 of 1912), s. 4, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of rules made under section 22 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1885.]

(Part III.—Penalties and Criminal Procedure.—Secs. 24-28.)

or who wilfully removes, alters or defaces such table, or allows it to become illegible,

or who fails to produce on demand the list of the tolls mentioned in section 19,

and every lessee who neglects to furnish any return required under section 15,

shall be punished with fine which may extend to fifty rupees.

24. Every such lessee or other person as aforesaid asking or taking more than the lawful toll, or without due cause delaying any person, animal, vehicle or other thing, shall be punished with fine which may extend to one hundred rupees.

Penalty for taking unauthorised tolls, and for causing delay.

25. Every person breaking any rule made under section 15 or section 22 shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

Penalty for breach of rules made under sections 15 and 22.

26. When any lessee of the tolls of a public ferry makes default in the payment of the rent payable in respect of such tolls, or has been convicted of an offence under section 25, or, having been convicted of an offence under section 23 or section 24, is again convicted of an offence under either of those sections, the Magistrate of the district may, with the approval of the Commissioner, cancel the lease of the tolls of such ferry, and make other arrangements for its management during the whole or any part of the term for which the tolls were leased.

Cancellation of lease on default or breach of rules.

27. Every person crossing by any public ferry who refuses to pay the proper toll, and every person—

Penalties on passengers offending.

who, with intent to avoid payment of such toll, fraudulently or forcibly crosses by any such ferry without paying the toll, or

who obstructs any toll-collector, or lessee of the tolls of a public ferry, or any of his assistants, in any way in the execution of their duty under this Act, or

who, after being warned by any such toll-collector, lessee or assistant not to do so, goes, or takes any animals, vehicles or other things, into any ferry boat, or upon any bridge at such a ferry, which is in such a state or so loaded as to endanger human life or property, or

who refuses or neglects to leave, or remove any animals, vehicles or goods from any such ferry-boat or bridge on being requested by such toll-collector, lessee or assistant to do so, or

who moors any boat, raft or other substance to, or in any way obstructs, any part of a public ferry,

shall be punished with fine which may extend to fifty rupees.

28. Whoever conveys for hire any passenger, animal, vehicle or other thing in contravention of the provisions of section 16 shall be punished with fine which may extend to fifty rupees.

Penalty for plying within public ferry-boat without license.

(Part III.—Penalties and Criminal Procedure.—Part IV.—
Miscellaneous.—Secs. 29-33.)

Fines payable
to lessee.

29. Where the tolls of any public ferry have been leased under the provisions hereinbefore contained, the whole or any portion of any fine realized under section 27 or section 28 may, notwithstanding anything contained in section 20, be, at the discretion of the convicting Magistrate or Bench of Magistrates, paid to the lessee.

Penalty for
rash naviga-
tion and
stacking of
timber.

30. Whoever navigates, anchors, moors or fastens any vessel or raft, or stacks any timber, in a manner so rash or negligent as to damage a public ferry, shall be punished with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both; and the toll-collector or lessee of the tolls of such ferry, or any of his assistants, may seize and detain such vessel, raft or timber pending the inquiry and assessment hereinafter mentioned.

Power to
arrest without
warrant.

31. The police may arrest without warrant any person committing an offence against section 27 or section 30.

Magistrate
may assess
damage done
by offender.

32. Every Magistrate or Bench of Magistrates trying any offence under this Act may inquire into and assess the value of the damage (if any) done or caused by the offender to the ferry concerned, and shall order the amount of such value to be paid by him in addition to any fine imposed upon him under this Act; and the amount so ordered to be paid shall be leviable as if it were a fine, or when the offence is one under section 30 by the sale of the vessel, raft or timber causing the damage, and of anything found in or upon such vessel or raft.

The Commissioner may, on the appeal of any person deeming himself aggrieved by an order under this section, reduce or remit the amount payable under such order.

PART IV.

MISCELLANEOUS.

Power to
take posses-
sion of boats
and other
appliances on
surrender or
cancellation
of lease.

33. On the cancelment or surrender of a lease, the Magistrate of the district may take possession of all boats and other appliances which have been used by the lessee in the working of the ferry; and may either retain the same permanently on payment of a fair price to the proprietor, or may retain them for such time as may be necessary, not exceeding three months, until he can make arrangements for such other boats and appliances as may be necessary, in which case the Magistrate of the district shall pay a fair sum to the owners for the use of the said boats and appliances:

Provided that, within a week of taking such possession, the Magistrate of the district shall be bound to give notice to

of 1885.]

(Part IV.—Miscellaneous.—Secs. 34-36.)

the said lessee of his intention to retain the said boats and appliances permanently, or for a period to be specified in the notice.

34. When any boats or their equipments, or any materials or appliances suitable for setting up a ferry, are emergently required for facilitating the transport of officers or troops of Her Majesty on duty, or of any other persons on the business of Her Majesty, or of any animals, vehicles or baggage belonging to such officers, troops or persons, or of any property of Her Majesty, the Magistrate of the district may take possession of and use the same (paying such compensation for the use thereof as the Lieutenant-Governor¹ may in each case direct) until such transport is completed. Similar power in cases of emergency.

35. It shall be lawful for the Lieutenant-Governor¹ to order² that any public ferry situated in any district in which a district board has been established under the provisions of the Bengal Local Self-Government Act of 1885³ shall be managed by such District Board; and such District Board shall have all the powers vested in the Magistrate of the district under this Act except the powers specified in sections 7, 17 and 32, and the Lieutenant-Governor¹ may further order² that all or any part of the proceeds of such ferry, and all or any part of the fines levied, and compensation received, under this Act in respect thereof, be paid into the District Fund.⁴ Management may be vested in District Board.

Ben. Act 8 of 1885.

And thereupon such ferry shall be managed, and such proceeds, fines and compensation shall be paid, accordingly.

The Lieutenant-Governor¹ may from time to time vary or annul any order made under this section.

36. The Lieutenant-Governor¹ may, from time to time, delegate,⁵ under such restrictions as he thinks fit, any of the powers conferred on him by this Act to any Commissioner or Magistrate of a district, or to such other officer or authority as he thinks fit, by name or by official designation. Delegation of powers.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of orders made under s. 35 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Printed *post*, page 907.

⁴ As to the crediting to the District Fund of receipts from public ferries, see also s. 52 (4) of the Bengal Local Self-Government Act of 1885 (Ben. Act 8 of 1885), *post*, p. 927.

⁵ For a list of orders made under s. 36 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885).

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PART I.—Local Authorities.

CHAPTER I.

DISTRICT BOARDS AND LOCAL BOARDS.

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[1885.]

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THE THIRD SCHEDULE.—DISTRICTS IN EVERY SUB-DIVISION OF WHICH A LOCAL BOARD SHALL BE ESTABLISHED.

BENGAL ACT 3 OF 1885

(THE BENGAL LOCAL SELF-GOVERNMENT ACT OF 1885).¹

(22nd July, 1885.)

An Act to extend the system of local self-government in Bengal.

WHEREAS it is expedient to extend the system of local self-government within the territories subject to the Government of the Lieutenant-Governor of Bengal²; It is enacted as follows:—

Preamble.

Preliminary.

1. This Act may be called the Bengal Local Self-Government Act of 1885.

Short title.

It shall extend to all the territories subject to the Lieutenant-Governor of Bengal³ which are not included within the limits of the town of Calcutta, * * * or of any place or town to which the provisions of the Bengal Municipal Act, 1884,⁴ have been, or may hereafter be extended :

Extent.

Ben. Act 3 of 1884.

And it shall come into force in any district on such date as the Lieutenant-Governor⁵ may, by notification,⁶ direct.

Commencement.

[Any notification, order or rule, and any appointment to an office, may be made, or election held, under this Act after it

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1883, Part IV, p. 99; for Preliminary Report of Select Committee, see *ibid.*, 1884, Part IV, p. 61; for further Report of Select Committee, see *ibid.*, 1885, Part IV, p. 13; and for Proceedings in Council, see *ibid.*, 1885, Supplement, pp. 90, 260, 365, 401 and 529; *ibid.*, 1884, Supplement, pp. 282 and 560; *ibid.*, 1886, Supplement, pp. 649, 658 and 683.

LOCAL EXTENT.—As to the local extent of this Act, see s. 1 and foot-notes thereto. The Act is in force throughout the present Presidency of Fort William in Bengal, except—

- (1) the town of Calcutta,
- (2) provincial municipalities,
- (3) the district of Darjeeling, and
- (4) the Chittagong Hill-tracts.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), in Vol. I of this Code.

LOCAL REPEAL.—As to the repeal of Ben. Act 3 of 1885 (or portions thereof) in areas in the neighbourhood of the Calcutta Municipality, on the extension thereto of the Calcutta Improvement Act, 1911 (or portions thereof), see s. 147 (2) of the latter Act, in Vol. III of this Code.

² This includes the present Presidency of Fort William in Bengal, and other territory.

³ The words "or of the districts of Singhbhum, the Southal Parganas or the Chittagong Hill-tracts," in section 1, were repealed, in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2, and are omitted. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I. The reference to the Chittagong Hill-tracts was repealed as having been superseded by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4, in Vol. I, of this Code.

⁴ Printed, *ante*, page 709.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Schedule D, items 1 and 2, in Vol. I of this Code.

⁶ For a list of notifications issued under this paragraph of s. 1 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI. This Act has been brought into force in all districts of the Presidency of Fort William in Bengal, except Darjeeling and the Chittagong Hill-tracts, by notification under this paragraph.

(Preliminary.—Secs. 2-5.)

shall have received the assent of the Governor General, and shall take effect in any district on this Act coming into force therein.]

Enactments
repealed and
amended.

2. On this Act coming into force in any district, the enactments specified in the first and second Schedules shall, as regards such district, be repealed to the extent mentioned in the third column of the first Schedule, and be amended to the extent mentioned in the third column of the second Schedule.

But this repeal shall not revive any office, authority or thing abolished by such enactment, or affect the validity of anything which has been done or suffered, or any right, title, obligation or liability which has accrued before the commencement of this Act.

Office held
under repealed
provisions of
Bengal Act 9
of 1880 to
continue in
existence until
its abolition or
confirmation
by District
Board.

3. Every person holding office in any district under the repealed provisions of the Cess Act, 1880,¹ shall continue to hold such office until it shall be abolished, or a new appointment made in respect thereof, by the District Board established in such district under the provisions of this Act:

Ben. Act 9 of
1880.

Provided that, if for a period of twelve months from the date on which this Act comes into force in any district, the District Board does not abolish such office or make such appointment as aforesaid, the person holding such office shall be deemed to have been appointed to it under the provisions of this Act:

Provided, further, that, if such office shall be abolished or a new appointment made in respect thereof, compensation, pension or gratuity shall be paid from the District Fund to any person not being a servant of the Government who may be deprived of such office, and the amount of such pension or gratuity shall be calculated in accordance with any rules made under the provisions of section 138 of the Cess Act, 1880¹; or, if no such rules have been made, the amount shall be calculated in accordance with the rules regulating the payment of compensation, pensions and gratuities to uncovenanted servants of the Government.

Ben.
1880.

Act not to
come into
force in
cantonments
without
sanction of
Governor
General in
Council.

4. Notwithstanding anything in section 1, this Act shall not come into force in any cantonment without the sanction of the Governor General in Council, previously obtained.

Interpreta-
tion.

5. In this Act, unless there be something repugnant in the subject or context,—

"Commis-
sioner."
"Local
authority."

"Commissioner" means the Commissioner of a Division;
"local authority" means any District Board or Local Board, Joint Committee, Union Committee or Joint Union Committee constituted under this Act:

¹ Printed ante, page 539.

[1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Bodies.—Sec. 6.)

Ben. Act 8 of 1884.

"municipal authority" means the commissioners of a municipality constituted under the provisions of the Bengal Municipal Act, 1884¹;

"Municipal authority."

"notification" means a notification published in the Calcutta Gazette;

"Notification."

"Magistrate of the district" includes any Magistrate subordinate to the Magistrate of the district, to whom he may delegate all or any of his powers under this Act;

"Magistrate of the district."

the term "salaried servant of Government" does not include a retired servant of Government in receipt of a pension;

"Salaried servant of Government."

"financial year" means the year commencing on the first day of April;

"Financial year."

Ben. Act 9 of 1880.

"cess year" means the year as fixed by the Lieutenant-Governor² under the Cess Act of 1880.³

"Cess year."

"sanitation" includes water-supply.

"Sanitation."

PART I.—Local Authorities.**CHAPTER I.****DISTRICT BOARDS AND LOCAL BOARDS.***Constitution of District Boards and Local Boards.*

6. The Lieutenant-Governor⁴ shall, by notification, establish a District Board for every district.

District Boards and Local Boards.

The Lieutenant-Governor⁵ may, by notification,⁶ establish a Local Board in any subdivision or in any two or more subdivisions combined, and may cancel or vary any such notification:

Provided that a Local Board shall be established in every subdivision of every district mentioned in the third Schedule of this Act * * * * *

¹ Printed *ante*, page 709.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ Printed, *ante*, page 529.

⁴ This definition "sanitation" was added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁵ For lists of notifications issued under paragraph 2 of s. 6 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ The words "and in any other sub-division to which the provisions of the next succeeding Chapter shall have been extended" were repealed in Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2, and are omitted. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

(Part I.—Local Authorities.—Chapter I.—District Boards
and Local Boards.—Secs. 7, 8.)

Constitution
of District
Boards.

A District Board shall have authority, for the purposes of this Act, over the district for which it is established, and a Local Board shall have authority over such subdivision or subdivisions as the Lieutenant-Governor¹ may, by notification, direct.

7. A District Board shall consist of such number of members, not being less than nine, as the Lieutenant-Governor¹ may, by notification,² fix in this behalf, and may include elected and appointed members:

Provided that, if there be no Local Board within a district, the whole of the District Board shall consist of appointed members.

When a Local Board has been established in any district, such Local Board shall be entitled to elect such proportion of the whole of the District Board as the Lieutenant-Governor¹ shall from time to time direct:³

Provided that, when Local Boards have been established throughout the whole area of any district, not less than one-half of the whole District Board (exclusive of the Chairman, if appointed under section 22, ⁴[section 23 A or section 29,]) shall be elected by such Local Boards:

Provided also that no person shall be elected a member of the District Board unless he be qualified for election as a member of some Local Board in the district under the provisions of section 13 of this Act.

The appointed members (if any) shall be such persons and officials as the ⁵[Commissioner] shall from time to time, either by name or by official designation, appoint:⁶

Provided that not more than one-half of the appointed members shall be salaried servants of the Government.

Constitution
of Local
Boards.

8. A Local Board shall consist of such number of members, not being less than six, as the Lieutenant-Governor¹ may by notification⁷ fix in this behalf.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of notifications issued under paragraph 1 of s. 7 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ For a list of notifications issued under paragraph 2 of s. 7 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ The words and figures in square brackets were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 4 (I), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ This word "Commissioner" in s. 7 was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 4 (B), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁶ For a list of *ex officio* appointments made under paragraph 3 of s. 7 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁷ For a list of notifications issued under section 8 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1935.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 9, 10.)

9. Two-thirds of the members of each Local Board established in a district mentioned in the third Schedule of this Act shall be elected under such rules, consistent with this Act, as the Lieutenant-Governor¹ may make for each Local Board in respect of the qualifications required to entitle any person to vote for a candidate for election, and in respect of the time and mode of election :

Lieutenant-Governor to make rules for qualification of persons entitled to vote for election of members of Local Boards.

Provided that every male person of the full age of twenty-one years resident within the area under the authority of a Local Board who is qualified in one of the manners following, that is to say :—

- (1) is a member of a Union Committee within such area; Qualification of electors.
- (2) has during the year immediately preceding such election—
 - (a) paid a sum of not less than one rupee on account of road-cess in respect of lands situated either wholly or in part within such area;
 - * * * * *
 - (c) been possessed of a clear annual income from any source of not less than two hundred and forty rupees;
- (3) been a member of a joint undivided family, one of the members of which is qualified for election as in this section hereinbefore provided, is a graduate or licentiate of any University, or holds a certificate as a pleader or *mukhtar*;

shall be entitled to vote at an election of members of such Local Board.

10. If, within the time prescribed by rules made by the Lieutenant-Governor⁴ under this Act, the prescribed proportion of elected members of any District Board or Local Board is not duly elected, the Commissioner may appoint members to make up that proportion.

Power to appoint members of District or Local Board, if prescribed proportion not duly elected.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² The letter and words “(b) paid license tax in respect of a trade, dealing or industry carried on within such area” in the proviso to s. 9, were repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and are omitted.

³ This section 10 was substituted for the original section 10 for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 5, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 2, Sch. I.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, Sch. D, item 1, in Vol. I of this Code.

(Part I.—Local Authorities.—Chapter I.—District Boards
and Local Boards.—Secs. 11-13.)

Appointment
of members
of Local
Boards by
Commissioner
to take effect
on result of
election.

11. One-third of the members of each Local Board established in a district mentioned in the third Schedule of this Act shall be appointed¹ by the ²[Commissioner] immediately after the result of the election mentioned in section 9 shall have been notified to him, and such appointment shall be deemed to have been made on the date on which such election takes place.

Proportionate
number of
members how
to be ascer-
tained if the
whole number
is not evenly
divisible by
two or by
three.

12. In cases where the whole number of members is not evenly divisible by two or by three, the one-half or one-third, as the case may be, shall be ascertained by taking the number next below the whole number which is evenly divisible by two or by three as the number to be divided.

Qualification
for election
as members
of Local
Boards estab-
lished in dis-
tricts men-
tioned in
Schedule.

13. The Lieutenant-Governor³ shall make rules, consistent with this Act, defining the qualifications of candidates for election as members of each Local Board established in a district mentioned in the third Schedule of this Act:

Provided that every male person of the full age of twenty-one years who is qualified in one of the manners following, that is to say:—

- (1) is a member of a Union Committee within the area under the authority of such Local Board.
- (2) has, during the year immediately preceding such election, had his fixed place of abode within "[the subdivision for which Local Board has been established]; and
 - (a) paid a sum of not less than five rupees on account of road-cess in respect of land situated, either wholly or in part, within the area under the authority of such Local Board;
 - or;
 - (c) been possessed of a clear annual income from any source of not less than one thousand rupees:
- (3) being a member of a joint undivided family, one of the members of which is qualified for election under clause (1) or clause (2) (a) or (b) of this proviso, is a

¹ For a list of *ex officio* appointments made under s. 11 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² This word "Commissioner" in s. 11, was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 4 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ These words in square brackets in s. 13 were substituted for the words "the area under the authority of such Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 6, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ The latter words "(3) paid a license-tax of not less than twenty rupees in respect of a manufacturing or industry carried on within the area under the authority of such Local Board" were repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 4, Sch. IV, and are omitted.

of 1883.]

(Part I.—Local authorities.—Chapter I.—District Boards
and Local Boards.—Secs. 14-17.)

graduate or licentiate of any university, or holds a certificate as a pleader or *mukhtar*;

shall be deemed to be qualified for election as a member of such Local Board.

14. It shall be lawful for the Lieutenant-Governor,¹ by notification² from time to time, to add the name of any district to the list included in the third Schedule of this Act.

Lieutenant-Governor may add names of districts, not already included, to Schedule.

From and after the date of such notification such district shall, for the purposes of this Act, be deemed to be a district mentioned in such Schedule.

15. The members of a Local Board, established in a district not mentioned in the third Schedule of this Act, shall be appointed³ by the '[Commissioner]', either by name or by official designation :

Constitution of Local Boards in districts not mentioned in Schedule.

Provided that not more than one-half of the whole number shall be salaried servants of the Government :

Provided, further, that the Lieutenant-Governor¹ may, at any time in regard to any Local Board, direct that two-thirds of the members of such Local Board shall be elected under the provisions of sections 9, 10 and 13, and that one-third shall be appointed under the provisions of section 11.

16. (*Term of office of members of District Board and Local Board*). Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

17. A member of a District Board or Local Board may resign by notifying in writing his intention to do so, in the case of a member of a District Board, to the '[Commissioner]', and in the case of a member of a Local Board to the '[District Board]', and, on such resignation being accepted by the '[Commissioner]' or '[District Board]', respectively, the member shall be deemed to have vacated his office, and shall not be re-elected until the expiration of the term for which he would have held the office but for his resignation.

Resignation of members.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a notification issued under section 14 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ For a list of *ex officio* appointments made under section 15 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ This word "Commissioner" was substituted for the words "Lieutenant-Governor" for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 4 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ This word "Commissioner" was substituted for the words "Lieutenant-Governor", for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 7, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁶ These words "District Board" were substituted for the word "Commissioner," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 7, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

*(Part I.—Local Authorities.—Chapter I.—District Boards
and Local Boards.—Secs. 18-19.)*

Powers of
Commissioner
to remove
members.

18. ¹(1) The ²[Commissioner] may remove any member of a District Board, ³[Local Board or Union Committee]—

- (a) if he refuses to act, or becomes incapable of acting, or is declared insolvent, ‘ . . . ’
- (b) if he has been declared by notification to be disqualified for employment in the public service;
- (c) if he, without an excuse sufficient in the opinion of the ²[Commissioner], absents himself from six consecutive meetings of the Board;
- (d) when he is a salaried servant of the Government, if his continuance in office is, in the opinion of the ³[Commissioner], undesirable.

³(2) Any member who is removed under sub-section (1) may appeal to the Lieutenant-Governor⁴ whose decision shall be final.

Power of
Lieutenant-
Governor to
remove
members
after
proceedings
in Criminal
Court.
Filling of
casual
vacancies.

18A. The Lieutenant-Governor⁴ may remove any member of a District Board, Local Board or Union Committee who is convicted of any such offence, or is subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor⁴ formed after due inquiry, unfits him to be a member.

19. (1) When the place of an elected member of a District Board or Local Board becomes vacant by his resignation, removal or death, a new member shall be elected, in accordance with the rules made by the Lieutenant-Governor⁴ under this Act, to fill the place:

Provided that if, within the time prescribed by such rules, no new member is duly elected, the Commissioner may appoint a new member to fill the place.

¹ This portion of s. 18 was re-numbered s. 18, sub-section (1), for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² This word “Commissioner” was substituted for the words “Lieutenant-Governor,” for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8 (2) (i), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ These words “Local Board or Union Committee” were substituted for the words “or Local Board,” for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8 (2) (ii), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ The words “or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor, formed after due inquiry, unfits him to be a member,” were repealed, in Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8 (2) (iii), and are omitted. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I. Cf. s. 18 A, post.

⁵ This sub-section (2) was added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 8 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

⁷ Section 18 A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 9, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁸ These sections 19 and 19 A were substituted for the original s. 19, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 10, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards
and Local Boards.—Secs. 19A-21.)

(2) When the place of an appointed member of a District Board or Local Board becomes vacant as aforesaid, the Commissioner may appoint¹ a new member to fill the place.

(3) No act of any District Board or Local Board, or of its officers, shall be deemed to be invalid by reason only of the fact that the number of members of the Board, at the time of the performance of the act, was less than the prescribed number.

¹19A. (1) A member of a District Board or Local Board who has been appointed by official designation shall, subject to sections 17, 18 and 18A of this Act, and unless the Lieutenant-Governor² otherwise directs, continue to be a member of the Board while he continues to hold the office to which such designation refers.

Term of office
of member of
District Board
or Local
Board.

(2) A member of a District Board or Local Board who has been elected or appointed under section 19 shall, subject as aforesaid, hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office.

(3) In cases not provided for by sub-section (1) or sub-section (2) of this section, the term of office of a member of a District Board or Local Board shall be fixed by the Lieutenant-Governor³ by rules, which may provide for the retirement of members by rotation.

(4) An outgoing member of a District Board or Local Board may, if otherwise qualified, be re-elected or re-appointed.

20. Every District Board shall be a body corporate by the name of "the District Board of (name of District)," and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and, subject to any rules made by the Lieutenant-Governor⁴ under this Act, to transfer any such property held by it, and to contract and do all other things necessary for the purposes of this Act, and may sue and be sued in its corporate name.

Incorporation
of District
Boards.

21. The several District Boards and Local Boards constituted under this Act shall come into existence at such time as the Lieutenant-Governor⁵ may by notification⁶ fix in this behalf.

Time for
District
Boards and
Local Boards
coming into
existence.

¹ For a list of *ex officio* appointments under section 19 (2) for Bengal, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² See footnote³ on p. 914, *ante*.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁵ For a list of notifications issued under section 21 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.—Local Authorities.—Chapter I.—District Boards and
Local Boards.—Secs. 22-25.)

Chairman and Vice-Chairman.

Chairman of
District
Board.

22. Every District Board shall be presided over by a Chairman, who shall be appointed by the Lieutenant-Governor,¹ or, should the Lieutenant-Governor¹ in any case so direct, be elected,² [either by name or by virtue of his office,] by the members of such Board from among their own number, subject to his approval.

Vice-Chair-
man of
District
Board.

23. Every District Board shall from time to time elect one of its members to be Vice-Chairman.

Appointment
of Chairman
or Vice-
Chairman of
District Board
on failure to
elect.

23A. If any District Board fails to elect a Chairman or Vice-Chairman within the time prescribed by rules made by the Lieutenant-Governor⁴ under this Act, the Lieutenant-Governor⁴ may appoint a Chairman or Vice-Chairman, as the case may be.

24. (*Term of office of Chairman and Vice-Chairman of District Board.*) Rep. by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908) s. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

Chairman of
Local Board.

25. Every Local Board shall be presided over by a Chairman, who shall be elected⁵ [either by name or by virtue of his office], by the members from among their own number, subject to approval by the⁶ [Commissioner]; or the Local Board may, at a meeting attended by not less than two-thirds of its members, request the⁷ [Commissioner] to appoint⁸ a Chairman.

If the Local Board fails to elect such Chairman as aforesaid within a period of one month from the time prescribed for such election by any rules made by the Lieutenant-Governor¹ under this Act, or within such extended time as the

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, Sch. D, items 1 and 2, in Vol. I of this Code.

² These words in square brackets in s. 22 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 11, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ Section 23A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 12, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

⁵ For a list of officials elected *ex officio* under section 25 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ These words "either by name or by virtue of his office," in s. 25, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 13 (a), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁷ This word "Commissioner," in s. 25, was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 13 (b), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁸ For a list of officials appointed *ex officio* under section 25 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 26-28.)

¹[Commissioner] may in his discretion allow for such election the ¹[Commissioner] shall appoint such Chairman.

²26. (1) Every Local Board shall from time to time, within a period prescribed by rules made by the Lieutenant-Governor⁴ under this Act, elect one of its members to be Vice-Chairman.

Vice-Chairman of Local Board.

(2) If any Local Board fails to elect a Vice-Chairman within such period, the Commissioner may appoint a Vice-Chairman.

³26A. A District Board or Local Board may grant leave of absence to their Chairman or Vice-Chairman for any period not exceeding three months in any one year.

Leave of absence to Chairman or Vice-Chairman of District or Local Board.

27. A Chairman of a District Board or Local Board may resign by notifying in writing his intention to do so ⁵[in the case of a Chairman of a District Board to the Lieutenant-Governor,⁴ and in the case of a Chairman of a Local Board, to the Commissioner; and, on such resignation being accepted by the Lieutenant-Governor⁴ or Commissioner, as the case may be,] shall be deemed to have vacated his office.

Resignation of Chairman and Vice-Chairman of District Board or Local Board.

A Vice-Chairman of a District Board or Local Board may resign by notifying in writing his intention to do so to the Board; and, on such resignation being accepted, shall be deemed to have vacated his office.

28. The Lieutenant-Governor⁶ may remove any Chairman of a District Board or Local Board from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Lieutenant-Governor,⁶ formed after due inquiry, unfits him to be Chairman, or, on the application of the Board, if he persistently neglects his duty as Chairman.

Removal of Chairman and Vice-Chairman of District Board or Local Board.

¹ This word "Commissioner," in s. 25, was substituted for the words "Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18 (b), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² The last paragraph of s. 25 was repealed in Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2, and is omitted. The Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ These sections 26 and 26A were substituted for the original section 26, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 14, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

⁵ These words in square brackets in s. 27 were substituted for the words "to the Lieutenant-Governor, and on such resignation being accepted," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 15, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part I.—Local Authorities.—Chapter I.—District Boards
and Local Boards.—Secs. 29, 29A.)

A District Board or Local Board may remove its Vice-Chairman from his office if he refuses to act, or becomes incapable of acting, or is declared insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as, in the opinion of the Board, formed after due inquiry, unfits him to be a Vice-Chairman, or if he persistently neglects his duty as Vice-Chairman.

Casual
vacancies in
office of
Chairman or
of Vice-
Chairman of
District or
Local Board.

¹29. (1) If a Chairman of a District Board dies, resigns, is removed, or avails himself of leave granted under section 26 A, the Lieutenant-Governor² may appoint a new Chairman, or may direct that, within a period prescribed by rules made by the Lieutenant-Governor² under this Act, a new Chairman be elected by the members of the Board from among their own number, subject to his approval.

(2) If a Chairman of a Local Board or a Vice-Chairman of a District Board or Local Board dies, resigns, is removed or avails himself of leave granted under section 26 A, the Board shall, at a special meeting held for the purpose within a period prescribed by rules made by the Lieutenant-Governor² under this Act, elect from among its members Chairman or Vice-Chairman, as the case may be.

(3) If any District Board or Local Board fails to elect a new Chairman or Vice-Chairman within the prescribed period, the Lieutenant-Governor² (in the case of a District Board) or the Commissioner (in the case of a Local Board) may appoint a new Chairman or Vice-Chairman, as the case may be.

Term of office
of Chairman
and Vice-
Chairman.

¹29A. (1) The term of office of an elected Chairman or Vice-Chairman of a District Board or Local Board, or of an appointed Vice-Chairman of a District Board or Chairman or Vice-Chairman of a Local Board, shall, subject to sections 27 and 28 of this Act, be the residue of his term of office as a member of the Board.

(2) The term of office of an appointed Chairman of a District Board shall, subject as aforesaid, be one year from the date of his appointment; but he may be re-appointed on the expiration of that term.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the term of office of a Chairman or Vice-Chairman appointed or elected to fill a casual vacancy consequent upon the grant of leave under section 26A shall expire upon the return from leave of the person whose office he was appointed or elected to fill.

¹ These sections 29 and 29A were substituted for the original section 29, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 16, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 2, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, item 1, in Vol. I of this Code.

of 1885.]

(Part I.—Local authorities.—Chapter I.—District Boards and Local Boards.—Secs. 29B-31.)

(4) Every appointed Chairman of a District Board shall be deemed to be a member of the Board during his term of office.

¹29B. Notwithstanding anything contained in any of the foregoing provisions of this Chapter, every appointment to any District or Local Board, as the case may be, made thereunder by the Commissioner, shall be subject to the administrative control of the Local Government.

Power to Local Government to control appointments made by Commissioner under preceding sections of this Chapter.

Joint Committees.

30. A District Board may join with any other District Board or with any Municipal² or Cantonment³ authority, or with more than one such Board, or Municipal or Cantonment authority, in constituting out of their respective bodies a Joint Committee for any purpose in which they are jointly interested, and in delegating to any such Joint Committee any power which might be exercised by either or any of the Boards or authorities concerned, and may from time to time frame rules as to the proceedings of any such Joint Committee, and as to the conduct of correspondence relating to the purpose for which the Joint Committee is constituted.⁴

Joint Committees.

Conduct of Business.

31. Minutes of the proceedings at each meeting of a District Board or Local Board shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the Chairman of the meeting, and shall be published in such manner as the Lieutenant-Governor⁵ may from time to time direct, and shall at all reasonable times and without charge be open to the inspection of any person resident within, or owning or holding land within, the jurisdiction of such Board.

Record and publication of proceedings.

A copy of every resolution passed by a District Board at a meeting shall, within three days from the date of the meeting, be forwarded to the Magistrate of the district for transmission to the Commissioner.

Resolutions passed by District Board or Local Board how to be treated.

A copy of every resolution passed by a Local Board at a meeting shall, within three days from the date of the meeting, be forwarded to the District Board and to the Magistrate of the district.

¹ Section 29B was inserted by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 5, Sch. III, in Vol. III of this Code.

² As to municipal authorities, see the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), *enq.*, p. 709.

³ As to cantonment authorities, see the Cantonments Act, 1910 (15 of 1910).

⁴ For a similar section applying to District Boards, see the Bengal Municipal Act, 1884 (Ben. Act 8 of 1884), s. 87A, *enq.*, p. 727.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa⁶ and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, Vol. I of this Code.

(Part I.—Local Authorities.—Chapter I.—District Boards and
Local Boards.—Sec. 32.)

Power to
make rules
as to business
and affairs.

32. ¹[Any District Board with the sanction of the Commissioner, and subject to the control of the Lieutenant-Governor², and any Local Board, with the sanction of the District Board any of the Commissioner and subject to the control of the Lieutenant-Governor]³ may from time to time make rules⁴ as to—

- (a) the time and place of its meetings, the business to be transacted at meetings, and the manner in which notice of meetings shall be given ;
- (b) the conduct of proceedings at meetings, the due record of all dissents and discussions, and the adjournment of meetings ;
- (c) the custody of the common seal, and the purposes for which it shall be used ;
- (d) the division of duties amongst its members ;
- (e) the powers to be exercised by the Chairman or Vice-Chairman, or by sub-committees or members to whom particular duties are assigned ;
- (f) the persons by whom receipts shall be granted for money received under this Act ;
- (g) the duties, appointment, ⁵[leave, leave-allowance and punishment (including suspension and removal),] of the officers and servants of the Board ; and
- (h) other similar matters ;

and may, ⁶[with the like sanction and subject to the like control,] from time to time repeal or alter such rules.

⁷All rules made under this section, and all orders repealing or altering any such rules, shall be published in such manner as the Lieutenant-Governor² may direct; and, so far as they are consistent with this Act and with any rules made by the Lieutenant-Governor⁸ hereunder, shall, upon such publication, have the force of law.

¹ These words in square brackets in s. 32 were substituted for the words "Every District Board and every Local Board with the sanction of the District Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 17 (a), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

³ For lists of rules made under section 32 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ These words in square brackets in s. 32 were substituted for the words "leave, suspension and removal," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 17 (b), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ These words in square brackets in s. 32 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 17 (c), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁶ This paragraph in s. 32 was substituted for the original paragraph, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 17 (d), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

[1885.]

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Secs. 33-35.)

Establishments.

33. Every District Board, subject to the provisions hereinafter contained, may from time to time determine and appoint the establishment to be employed by it, or by any Joint Committee constituted under section 30, ¹or by an Education Committee referred to in section 65B], and may fix the salaries to be paid to such establishment:

District Board may appoint establishments and fix salaries.

Provided—

- (1) that no appointment, the monthly salary of which amounts to one hundred rupees or more, shall be created or abolished without the approval of the Commissioner, and that every nomination to, and dismissal from, such an appointment shall be subject to confirmation by the Commissioner;
- (2) that the aggregate salaries and allowances in any one financial year of the establishment employed by any District Board for the purpose of heading D of Part III of this Act shall not, without the sanction of the Lieutenant-Governor,² exceed twenty *per centum* on the total amount available for expenditure by such Board upon public works during the financial year;
- (3) that every District Board shall conform to any rules made by the Lieutenant-Governor² under this Act regarding the qualifications of candidates for employment.

34. (*Rules regarding leave of absence and absentee allowances to officers.*) Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 3, Sch. I.

35. A District Board may, from time to time, with the sanction of the Commissioner and subject to the control of the Lieutenant-Governor⁴ make rules⁵ for pensions and gratuities to be granted and paid out of the District Fund to its establishment, and for the grant and payment therefrom of extraordinary pensions and gratuities to the families of deceased employes; and may, with the like sanction, and subject to the like control, repeal, add to, or alter such rules.

Pensions and gratuities to be paid out of the District Fund.

¹ These words in square brackets in s. 33 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 18, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act (Ben. Act 1 of 1914), s. 3, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

³ This section 35 was substituted for the original section 35 for Western Bengal, by the Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 19, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

⁵ For a list of rules made under section 35 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Part I.—Local Authorities.—Chapter I.—District Boards and Local Boards.—Chapter II.—Union Committees.—Secs. 35A-38.)

Provident
Fund.

¹ **35A.** A District Board may, from time to time, with the sanction of the Commissioner and subject to the control of the Lieutenant-Governor² make rules—

- (a) for the creation and management of a Provident Fund for its several establishments;
- (b) for compelling members of its establishments to make contributions to such Fund;
- (c) for supplementing such contributions by grants from the District Fund; and
- (d) for the payment of moneys out of such Provident Fund;

and may, with the like sanction and subject to the like control, repeal, add to, or alter such rules.

Union Com-
mittee may
appoint estab-
lishment and
fix salaries.

36. Every Union Committee may from time to time determine and appoint the establishment to be employed by it, and may fix the salaries to be paid to such establishment:

Provided that no appointment, the monthly salary of which amounts to ten rupees or more, shall be created without the consent of³ [the District Board].

CHAPTER II.

UNION COMMITTEES.

Operation of
Chapter.

37. No provision contained in this Chapter shall apply to any district, or part of a district, unless and until it has been expressly extended thereto by notification⁴ by the Lieutenant-Governor.⁵

Formation of
Unions

38. The Lieutenant-Governor⁶ may, by order⁷ in writing, constitute any village or group of villages into a Union; and may prescribe for such Union the number of members of which the Union Committee shall consist.

Such number shall not be less than five or more than nine.

It shall be lawful for the Lieutenant-Governor⁸ from time to time to vary or annul such order.

¹ Section 35A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 20, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (7 of 1913) s. 8, and Sch. D, item 1, in Vol. I of this Code.

³ These words "the District Board" were substituted for the words "the Local Board to which the Union Committee creating such appointment is subordinate," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 21, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁴ For a list of notifications issued under section 37 for Bengal as constituted on the 31st March, 1913, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (7 of 1913), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁶ For a list of orders made under s. 38 for Bengal as constituted on the 31st March, 1913, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

of 1885.]

(Part I.—Local Authorities.—Chapter II.—Union Committees,
—Secs. 39-43.)

39. Save as is hereinafter provided, such number shall be elected from among the residents of the Union, in accordance with rules made by the Lieutenant-Governor¹ under this Act, and shall constitute the Union Committee of such Union.

Election of members of Union Committee.

40. If the electors of any Union fail to elect the full number of members prescribed for the committee of such Union, the Commissioner may appoint the remainder.

Appointment on failure to elect.

41. Notwithstanding anything in this Act contained, it shall be lawful for the Lieutenant-Governor¹ to direct² by order in writing, for reasons to be stated in such order, that any Union Committee shall consist, either wholly or in part, of members appointed by the Commissioner.

Appointment in substitution of election.

41A. (1) Every Union Committee shall, from time to time, elect one of its members to be Chairman of the Committee.

Chairman of Union Committee.

(2) The election of any person to be Chairman of a Union Committee shall be subject to the approval of the District Board.

(3) If a Chairman of a Union Committee be not elected within the period prescribed in this behalf by rule made under clause (c) of section 138 of this Act, the District Board shall appoint a member of the Committee to be Chairman.

42. The term of office of the members of a Union Committee shall be two years from the date of their election or appointment, but shall include any period which may elapse between the expiration of the said two years and the date of the next subsequent election or appointment, not being an election or appointment under the next succeeding section.

Term of office of members.

At the expiration of such term such members may be re-elected or re-appointed.

43. When the place of an elected or appointed member of a Union Committee becomes vacant by the resignation or death of such member, a new member shall be elected or appointed, in the manner hereinbefore provided, and shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but may be re-elected or re-appointed:

Filling of casual vacancies.

Provided that no act of the Committee or of its officers, or of the Committee in meeting, shall be deemed to be invalid by reason only that the number of the Committee at the time of the performance of such act was less than the prescribed number.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (17 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of orders made under s. 41 for Bengal, as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Section 41A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 22, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

(Part I.—Local Authorities.—Chapter II.—Union Committees.
—Part II.—Finance.—General.—Chapter I.—Secs. 44-46.)

Joint Union
Committees.

44. Any Union Committee may from time to time, with the consent of ¹[the District Board], join with any other Union Committee or Committees in constituting out of their respective bodies a Joint Union Committee for any purpose in which they are jointly interested, and in delegating to any such Joint Union Committee any power which might be exercised by either or any of the Union Committees; and may from time to time frame rules as to the proceedings of any such Joint Committee and as to the conduct of correspondence relating to the purpose for which the Joint Union Committee is constituted.

It shall be lawful for ²[the District Board] to associate not more than two of its members with any Joint Union Committee constituted under this section.

PART II.—Finance.

GENERAL.

Lieutenant-Governor may direct that funds of existing local bodies shall be vested in new local authorities.

45. The Lieutenant-Governor³ may, by notification, direct that all or any portion of the funds vested in any local body existing in ⁴[any district in which this Act is in force] shall be vested in any local authority constituted under this Act, immediately upon such local authority being constituted.

CHAPTER I.

District Board to fix rate of road-cess annually.

46. A District Board, on or before the day prescribed in the rules made by the Lieutenant-Governor⁵ under this Act, shall hold a meeting for the purpose of fixing the rate at which the road-cess⁶ shall be levied in the district during the ensuing cess year:

Provided that the rate at which the road-cess is levied when this Act comes into force in such district shall not be reduced without the sanction of the Lieutenant-Governor.⁷

¹ These words "the District Board" were substituted for the words "the Local Board to which it is subordinate, as hereinafter provided", for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 28, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² These words "the District Board" were substituted for the words "the Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 28, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3 and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ For lists of notifications issued under section 45 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁵ These words in square brackets in s. 46 were substituted for the words "such district" by the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ As to the road-cess, see the Cess Act, 1880 (Ben. Act 9 of 1880); ante, p. 529.

of 1885.]

(Part II.—Finance.—Chapter I.—Secs. 47, 48.)

47. Every District Board shall submit to the Magistrate of the district, for transmission to the Commissioner, on or before the day prescribed in the rules made by the Lieutenant-Governor¹ under this Act,—

Estimates, reports and statements of District Board to be submitted to Commissioner.

- (1) a statement of the requirements and an estimate of the probable expenditure of the District Board for the ensuing financial year,
- (2) a report of its proceedings,
- (3) an account of its receipts and expenditure for the past financial year, and, from time to time, such other reports and accounts as the Commissioner may require.

The Magistrate of the district, when he is not Chairman of the Board, shall, on or before the day prescribed in the rules made by the Lieutenant-Governor¹ under this Act, signify in writing to the Board his approval or disapproval of the statement of requirements and estimate.

When he disapproves of the statement of requirements and estimate on the ground that the expenditure on salaries, works or other objects proposed therein appears to be insufficient or excessive, or that any particulars contained therein appear to be erroneous, defective or improper, he shall state the nature of his objection.

The Board shall then consider his objection, and may modify the statement of requirements and estimate, or signify in writing its reasons for adhering to such statement and estimate; and the Magistrate of the district shall thereupon forward the statement of requirements and estimate to the Commissioner.

48. The Commissioner may either approve of the estimate as it stands, or approve of it after making such alterations therein as may seem to him fit, or may cause it to be returned to the Board for such modifications as he may think necessary, and, when such modifications have been made, the estimate shall be re-submitted for ratification to the Commissioner.

Power of Commissioner as to estimates.

Provided that the Commissioner shall not make, and shall not require the District Board to make, otherwise than with its own consent, any such alterations as may have the effect of raising the total of such estimate above the total of the sum estimated to be at the disposal of the District Board for expenditure during the financial year.

²*Explanation.*—Alterations or modifications may be made or directed by the Commissioner under this section on any of the grounds mentioned in the penultimate paragraph of section 47.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² This *Explanation* was added to s. 48, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906) s. 24, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

(Part II.—Finance.—Chapter I.—Chapter II.—~~The District~~
Fund.—Secs. 49-52.)

Estimates
may be
amended
or revised.

District
Boards may
raise loans
and may
form a
sinking fund.

49. Any estimate prepared and approved as hereinbefore provided may, with the approval of the Commissioner, be amended or revised at any time by the District Board.

50. It shall be lawful for a District Board, subject to the provisions of any law relating to the raising of loans by local authorities for the time being in force, from time to time to raise loans for the purpose of carrying out any of the provisions of this Act, and to guarantee the payment of interest on such loans, and to form a sinking fund:

¹ Provided that no loan shall be raised for the purpose of constructing and maintaining a railway or tramway under the provisions of section 80, unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the members of the District Board have voted.

Estimates
and audit of
accounts of
Local Boards.

51. Every Local Board shall submit to the District Board annually, on or before such date as the District Board may appoint, a statement of the requirements and an estimate of the probable expenditure of the Local Board for the ensuing financial year, and shall submit, as often as the District Board may require, accounts of its receipts and expenditure.

The District Board may approve such estimate or may make such alterations therein as it thinks fit.

The District Board shall make arrangements, subject to the approval of the Commissioner, for the examination and audit of accounts submitted to it under this section, and may direct the publication of such accounts.

CHAPTER II.

THE DISTRICT FUND.

Constitution
of District
Fund.

52. There shall be formed for each district a fund to be called the "District Fund," and there shall be placed to the credit thereof—

- (1) the balance of the District Road Fund of the district, after payment of the expenses mentioned in section 109² of the Cess Act, 1880, as amended by this Act;

¹ This proviso was added to s. 50, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 25, 1st Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act (Ben. Act I of 1914), s. 8, Sch. I.

² Printed code, page 560.

of 1885.]

(Part II.—Finance.—Chapter II.—The District Fund.—
Sec. 52.)

1 of 1871.

Ben. Act 1 of
1885.

- ¹ (1a) all sums received under any loan raised under section 50;
- (2) all sums levied within the district as fines, penalties or otherwise under this Act;
- ² (3) all sums directed by notification under section 31 of the Cattle-trespass Act, 1871³, to be placed to the credit of the Fund;
- (4) all receipts in respect of public ferries within or on the boundary of the district which have been placed under the management of the District Board under the provisions of the Bengal Ferries Act, 1885⁴;
- (5) all receipts in respect of any schools, hospitals, dispensaries, railways, tramways or other buildings, institutions or works, which may have been constructed by, vested in or placed under the control and administration of a District Board under Part III of this Act;
- ⁵ (5a) all receipts accruing within the district from under tolls or leases under Part III, heading D (1), of this Act;
- (6) all sums which may be allotted to the District Board from the provincial revenues by the Lieutenant-Governor⁶ for any of the purposes mentioned in Part III of this Act. or for any other purpose;
- (7) all sums contributed to the District Board by local bodies or private persons.

⁷ The balance of the District Road Fund mentioned in clause (1) of this section shall be placed to the credit of the District Fund under a separate head.

The District Fund shall be vested in the District Board, and the balance standing to the credit of the fund shall be kept in such custody as the Lieutenant-Governor⁸ from time to time directs.

District Fund
to be vested
in Board.

¹ Clause (1a) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 26 (1) in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² This clause (3) was substituted for the original clause (3) for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 26 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ Printed in General Acts, 1868-78, Ed. 1909, p. 159.

⁴ As to the management of public ferries by District Boards, see the Bengal Ferries Act, 1885 (Ben. Act 1 of 1885), s. 35, ante, p. 895.

⁵ Clause (5a) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 26 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

⁷ This clause was inserted, in section 55, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 26 (4) in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part II.—Finance.—Chapter II.—The District Fund.—
Sec. 53.)

Application of
of District
Fund.

53. The District Fund shall¹ [subject to the provisions of section 109² of the Cess Act, 1880, as amended by this Act], be applicable to the following objects, and in the following order:—

Ben. Act 9
of 1880.

Firstly.—To the payment of any sums which the District Board may be liable to pay as interest upon loans raised by it under section 50 for the purposes of this Act, and to the formation of a sinking fund, when required.

Secondly.—To the payment of any sums which the District Board may under this Act from time to time have undertaken to pay as interest on capital expended on any works which may directly improve the means of communication within the district or between such district and other districts.

Thirdly.—To the payment of such percentage as the Lieutenant-Governor³ may from time to time direct towards the cost of audit, and towards the cost of establishments in any office of account or in any treasury:

Provided that the total amount which any District Board may be required to pay on this account shall not in any year exceed two *per centum* on the whole amount of the District Fund for such year.

Fourthly.—To the payment of the salaries of the establishments employed by the District Board for the purposes of this Act and of any pensions and gratuities granted under section 3 and section 35⁴ [and of any grants made for supplementing contributions by members of such establishments to any Provident Fund created under section 35 A], and to the payment to the Government of such percentage as the Lieutenant-Governor³ may from time to time direct on the salaries of such establishments in consideration of the Government undertaking to pay the leave and pension allowances of such establishments.

¹ These words in square brackets in the opening clause of s. 53 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 27 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 3, Sch. I.

² Printed ante, p. 580.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ These words in square brackets in this clause *Fourthly* were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 27 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 3, Sch. I.

of which.]

(Part II.—Finance.—Chapter II.—The District Fund.—
Sec. 53.)

¹ *Fifthly*.—To the payment of—

(a) expenses incurred by the District Board in—

- (i) the construction, repair and maintenance of any works which may become vested in, or be placed under the control and administration of, such Board under Part III of this Act;
- (ii) the acquisition, by purchase or otherwise, of offices for the use of the District Board, or of a house and land for the residence of the District Engineer, or the acquisition of land for, and the construction of, such offices or house; and
- (iii) the performance of duties imposed, and the exercise of powers conferred, by this Act;

(b) advances granted to members of the establishments of the District Board for the purpose of enabling them to acquire or construct residences for themselves;

(c) any contribution made by the District Board under Part III of this Act; and

(d) any sums assigned by the District Board to a Local Board or Union Committee under this Act.

Sixthly.—To the payment, at such rates as the Lieutenant-Governor² may direct³,—

- ⁴ (a) of travelling expenses incurred by delegates of the District Board in attending meetings convened under the rules made by the Lieutenant-Governor⁵ in pursuance of sub-section (4) of section 1⁶ of the Indian Councils Act, 1892, for the purpose of recommending a person to be nominated as a member of the Lieutenant-Governor's Council⁷;

65 & 66, Vict.,
c. 14.

¹ This clause *Fifthly* was substituted for the original clause *Fifthly*, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 27 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ For lists of orders under clause *Sixthly* for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ These clauses (a) to (d) were substituted for the words “of the travelling expenses incurred by members of the District Board in attending meetings of the Board or meetings of a Joint Committee” for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 27 (4), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

⁶ Section 1 of the Indian Councils Act, 1892, has been repealed by s. 2 (3) of the Indian Councils Act, 1909 (7 Edw. VII, c. 4).

⁷ The Lieutenant-Governor's Council has ceased to exist.

(Part II.—Finance.—Chapter II.—The District Fund.—
Sec. 63.)

- ¹(b) of travelling expenses incurred by members of the District Board or any Local Board in attending meetings of the District Board or Local Board or meetings of a Committee or Joint Committee; and
- ¹(c) in such cases, if any, as the Lieutenant-Governor² may direct, of travelling expenses incurred by members of the District Board or any Local Board in performing journeys for carrying out other objects of this Act; and
- ¹(d) of the expenses of any of the poorer inhabitants of the district for journeys to and from any hospital established in any part of British India for the treatment of special diseases.

Seventhly.—To the payment of expenses incurred by the District Board under section 80 of this Act.

Eighthly.—To investment in any local debenture loans issued by the Government of India or by any municipal authority or local authority, for the construction of public works which may directly improve the means of communication within the district or between such district and other districts :

Provided—

- (1) that, ³[except as is provided in section 99A.] no sum shall be expended from the District Fund—
in the construction of any channel for the purposes of irrigation; or
for the purposes of drainage connected with any irrigation works in charge of public officers; or
for the improvement or maintenance of any water-channel on which tolls are levied, when no portion of the proceeds of such tolls is paid into the District Fund;
- (2) that no part of the District Fund shall be applied to the construction, repair or maintenance of any road within any municipality which has been, or may hereafter be, constituted under the Bengal Municipal Act, 1884,⁴ unless such road shall have been expressly excluded from the operation of the said Act under section 30 thereof.

Ben. Act 3
of 1884.

¹ See foot-note * on page 929, *ante*.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (7 of 1913), s. 8, and Sch. D, item 1, in Vol. I of this Code.

³ These words in square brackets were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 27 (d), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁴ Printed *ante*, page 709.

of 1885.]

(Part II.—Finance.—Chapter II.—The District Fund.—
Sers. 53A-55.)Ben. Act 9
of 1880.

(3) that the application of the balance of the District Fund mentioned in clause (1), section 52 of this Act to any object other than those referred to in section 109² of the Cess Act, 1880 as amended by this Act, shall be subject to such rules as the Lieutenant-Governor³ may prescribe.

Ben. Act 9
of 1880.

53A. If any deviation from the provisions of this Act, or of any rule made hereunder, or of section 109² of the Cess Act, 1880, as amended by this Act, relating to the crediting or application of the balance of the District Road Fund mentioned in clause (1) of section 52 of this Act, is shown to the satisfaction of the Lieutenant-Governor³ to have been of temporary duration or of an accidental character, he may cause a declaration to be made to that effect;

Temporary accidental deviations from provisions relating to crediting or application of District Road Fund.

and such deviation shall thereupon be deemed to be valid, notwithstanding any of the provisions hereinbefore referred to.

54. Account-books of the District Fund shall be kept by an officer to be appointed by the District Board.

Accounts of District Fund how to be kept and published.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the Lieutenant-Governor³ directs, and any person resident in or owning or holding land in the district may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the District Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

55. Every District Board shall appoint a Finance Committee consisting of so many members as it thinks fit.

Finance Committee.

It shall be the duty of such Committee to prepare the statements, estimates and accounts required for submission under section 47, and generally to superintend all matters

Its duties.

¹ Provision (3) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 37 (6), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1911 (Ben. Act 1 of 1911), s. 2, Sch. I.

² Printed *ante*, page 580.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

⁴ Section 53A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 23, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1911 (Ben. Act 1 of 1911), s. 3, Sch. I.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part II.—Finance.—Chapter III.—The Union Fund.—
Secs. 56, 57.)

connected with the finances and accounts of the District Board.

The Finance Committee shall at all times, when required so to do, produce its accounts for audit by any officer who may be appointed by the Lieutenant-Governor¹ in that behalf.

CHAPTER III.

THE UNION FUND.

Constitution
of Union
Fund.

56. There shall be formed for each Union a fund to be called the "Union Fund." and there shall be placed to the credit thereof—

- ¹ (1) all sums directed by notification under section 31² of the Cattle-trespass Act, 1871, to be placed to the credit of the Fund;
- (2) all sums assigned thereto by the Lieutenant-Governor¹ or District Board, whether as a contribution towards the cost of making village roads or otherwise;
- (3) all other sums received by the Union Committee in the execution of this Act.

Union Fund
to be vested
in Union
Committee.

The Union Fund shall be vested in the Union Committee and the balance standing to the credit of the Fund shall be kept in such custody as the Lieutenant-Governor¹ from time to time directs.

Application
of Union
Fund.

57. The Union Fund shall be applicable to the following objects, and in the following order :—

- (1) to the payment of establishments employed, and expenses incurred, by the Union Committee for the purposes of this Act;
- (2) to the payment of the expenses incurred by the Union Committee in respect of the duties imposed, and powers conferred, upon it under Part III of this Act, and of any expenses that may be incurred through its default in carrying out any of such duties.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 4, and Sch. D, items 1 and 2, in Vol. I of this Code.

² This clause (1) was substituted for the original clause (1), for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 29, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 4, sub. 1.

³ Printed in General Acts, 1868-75, Bk. 1902, p. 168.

of 1883.]

(Part II.—Finance.—Chapter III.—The Union Fund.—
Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 58-60.)

58. Account-books of the Union Fund shall be kept by an officer to be appointed by the Union Committee.

Accounts of
Union Fund
how to be
kept and
published.

An account showing the receipts and expenditure during the quarter, arranged under the proper heads and duly balanced, shall be prepared immediately after the close of each quarter and published in such manner as the Lieutenant-Governor¹ directs, and any person resident in or owning or holding land in the Union may at all reasonable times inspect any such account without payment of a fee.

A similar account showing the income of the Union Fund under each head of receipt, the charges of establishment, the works undertaken, the sums expended on each work, and the balance, if any, of the Fund remaining unspent at the end of the year, shall be prepared for each financial year as soon as possible after its close, and shall be open to inspection as aforesaid.

Copies of the quarterly and yearly accounts shall be submitted to² [the District Board.]

PART III.—Duties and Powers of Local Authorities.

CHAPTER I.

DUTIES AND POWERS OF DISTRICT BOARDS.

59. The provisions included under the headings A to E (both inclusive) of this Chapter shall be in force as regards every District Board, unless and until the Lieutenant-Governor¹ shall otherwise direct.

Operation
provision
included
under
headings
A to E.

60. No provision included under the headings F to I (both inclusive) of this Chapter shall apply to any District

Operation
provision
included
under
headings
F to I.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² These words "the District Board," in s. 58, were substituted for the words "the Local Board to which such Union Committee is subordinate," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 80, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ This letter "E," in this section 59, was substituted for the letter "D," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 81, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ This letter "F" in this section 60, was substituted for the letter "E," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 82, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part II.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 61-63.)

Board, unless and until it has been expressly extended thereto by notification¹ by the Lieutenant-Governor.²

A.—Pounds.

Powers of District Board in respect of pounds.

61. Every District Board shall perform such functions as Pounds.
may be transferred³ to it by notification under section 31⁴ of
the Cattle-trespass Act, 1871. 1 of 1871.

B.—Education.

Primary and middle schools under public management.

62. Subject to any rules made by the Lieutenant-Governor⁵ under this Act, every District Board shall be charged with, and be responsible for, the maintenance and management of all primary and middle schools under public management within the district, and construction and repair of all buildings connected therewith, the appointment (subject to the provisions of section 33) of all masters and assistant masters thereof, and the payment of the salaries of such masters and assistant masters:

Provided that nothing contained in this section shall be held to apply to schools for the education of Europeans and Eurasians.

Other schools.

63. The District Board may, subject to any rules made by the Lieutenant-Governor⁶ under this Act,—

(a) with its own consent, be charged with, and made responsible for, the maintenance and management of any other schools or class of schools within the district; or

(b) make grants-in-aid of any such schools, whether the same be under public or private management.

¹ For a list of notifications issued under section 60 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ This section 61 was substituted for the original s. 6, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 88, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 2, Sch. I.

⁴ For a list of orders transferring functions under the Cattle-trespass Act to District Boards, see entries under Act I of 1871, s. 81 (a), in the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. IV.

⁵ Printed in General Acts, 1868-78, Ed. 1908, p. 188.

⁶ This section 63 was substituted for the original section 63, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 84, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 2, Sch. I.

⁷ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs 62, 64A.)

Ben. Act 5 of
1884.

64. It shall be lawful for the Lieutenant-Governor¹ to declare² that the maintenance and management of any High English school under public management, situated within a town which has been or may hereafter be constituted a municipality under the Bengal Municipal Act, 1884,³ shall be entrusted to a Joint Committee, consisting partly of members delegated by the Commissioners of such municipality and partly of members delegated by such District Boards as may be named in the order.

High English
schools.

Every order issued under this section shall specify the number of members to be delegated, and the proportion of the cost of maintenance of the school to be provided by each of the local authorities and the municipal authority named therein.

Every Joint Committee appointed under this section shall in respect of any such school, have the same powers and be subject to the same liabilities as are by this heading conferred and imposed on District Boards.

64A. The District Board may, subject to any rules made by the Lieutenant-Governor⁴ under this Act,—

Provision
maintenance
and
management
of students'
hostels.

- (a) provide buildings to be used as students' hostels in connection with schools for the maintenance and management of which the Board is responsible under section 62 or section 63, and maintain and manage such hostels, or
- (b) make grants in aid of any school referred to in section 63 or section 64, or any other school, college or educational institution, for the purpose of providing buildings to be used as students' hostels in connection with such school, college or institution, or for the purpose of maintaining and managing such hostels, or
- (c) establish scholarships for the furtherance of technical or any other special form of education :

Provided that, save with the sanction of the Local Government, no such scholarship shall be tenable at any school or institution not situated within the area under the authority of the District Board.]

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, Items 1 and 2, in Vol. I of this Code.

² For an order made under section 64 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Printed ante, page 709.

⁴ Section 64 A was inserted, for Western Bengal, by the Bengal Local Self-Government, (Amendment) Act, 1908 (Ben Act 5 of 1908), s. 36, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben Act 1 of 1914), s. 3, Sch. I.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

⁶ The portion in square brackets in s. 64A was added by the Bengal Laws Act, 1914 (Ben Act 1 of 1914), s. 3, Sch. III, in Vol. III of this Code.

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 65-65B.)

Transfer of
funds by
Government
to District
Board.

65. It shall be lawful for the Lieutenant-Governor¹ from time to time to transfer to a District Board such funds as he may deem necessary for expenditure on—

- ¹(a) the improvement of any school or class of schools within the district under private management; or
- ²(b) the maintenance or improvement of any schools or class of schools maintained and managed by the District; or
- ³(c) the provision of buildings to be used as students' hostels in connection with any school referred to in section 64, or in clause (a) or clause (b) of this section, or any other school, college or educational institution, and the maintenance and management of such hostels.

And, subject to any rules made by the Lieutenant-Governor¹ under this Act, the Board shall be charged with, and be responsible for, the proper distribution of such funds.

Site of
students'
hostels.

65A. The hostels referred to in sections 64 A and 65 may be situated either within the area directly subject to the authority of the District Board or within any place or town lying within that area in which the Bengal Municipal Act, 1884⁴, is for the time being in force.

Ben. Act
1884.

Constitution
and functions
of Education
Committees.

65B. (1) Every District Board shall appoint, to be members of an Education Committee,—

- (a) the Deputy Inspector of Schools;
- (b) three members of the District Board; and
- (c) not more than three residents of the district not being members of the District Board.

(2) The appointment of any person referred to in clause (c) of sub-section (1) to be a member of an Education Committee shall be subject to the approval of the Commissioner; and, when his appointment has been so approved, such person shall, for the purposes of sub-clause (b) of clause *Sixthly* of section 53, be deemed to be a member of the District Board.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² Clauses (a) to (c) in this section 65 were substituted for the words "the improvement of primary schools within the district under private management", for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 6 of 1908), s. 86, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ Sections 65 A and 65 B were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 6 of 1908), s. 87, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ *Printed Act*, page 709.

[1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 66, 67.)

(3) It shall be the duty of an Education Committee, subject to the control of the District Board and to any rules made by the Lieutenant-Governor¹ under section 138,—

- (i) to superintend all matters connected with the finances, accounts, maintenance and management of all schools maintained by the District Board, and
- (ii) to determine the conditions to be complied with when grants are made by the District Board in aid of other schools.

(4) Nothing in the foregoing sub-sections shall apply to schools referred to in section 64.

C.—Medical.

66. It shall be lawful for the Lieutenant-Governor² from time to time to direct, by notification,³ that any public charitable dispensary or hospital within a district shall be under the control and administration of the District Board.

District Board to have control and administration of public charitable dispensaries or hospitals within the district.

And the District Board shall thereupon be charged with the control and administration thereof, and the construction and repair of all buildings connected therewith.

The Lieutenant-Governor² may at any time vary or annul any order made under this section.

67. A District Board may provide, for the use of the inhabitants of the district, dispensaries, hospitals or temporary places for the reception of the sick, and for that purpose may—
itself build such dispensaries, hospitals or places of reception; or
contract for the use of any such dispensary, hospital or place of reception, or of any part thereof; or
enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of the district, on payment of such annual or other sum as may be agreed on.

District Board may establish and maintain dispensaries and hospitals.

‘A District Board may also provide for—

- (a) the training and employment of compounders, midwives and veterinary practitioners; and
- (b) the promotion of free vaccination.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

³ For a list of notifications issued under section 66 for Bengal as constituted on the 31st March 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ This clause in section 67 was added, for Western Bengal, by the Bengal Local Self-Governance (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 38, in Vol. III of this Code. That Act was applied to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 68-73.)

Two or more District Boards may combine to establish dispensaries.

District Board may contribute to cost of maintenance of dispensary or hospital outside district.

Power to provide temporary supply of medicine and medical assistance.

District Board to conform to rules made by Lieutenant-Governor.

68. Two or more District Boards may, with the approval of the Commissioner or Commissioners, combine in providing a common dispensary, hospital or place for the reception of the sick, and, with the like approval, fix the proportions of the cost thereof to be borne by them respectively.

69. A District Board may, with the approval of the Commissioner, contribute such annual or other sum as may be agreed on towards the cost of the maintenance of any dispensary or hospital which is situated outside the district, but is habitually used by the inhabitants of the district.

70. A District Board may, with the approval of the Commissioner, provide, or contract with any person to provide, a temporary supply of medicine and medical assistance for the poorer inhabitants of the district.

71. Every District Board, in exercising powers vested in it by the five last preceding sections, shall conform to any rules made by the Lieutenant-Governor¹ under this Act.

72. (District Board to submit returns of births and deaths to Magistrates.) *Rep. in Western Bengal by the Bengal Local Self-Government (Amendment) Act, 1908, s. 2. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.*

D.—Public Works.

Transfer to District Boards of roads and other property of District Board Committee.

73. From and after the establishment of a District Board in any district, all roads, bridges, channels, buildings and other property, movable or immovable, held by, or under the control and administration of, the District Road Committee or any Branch Committee in such district for the purposes of the Cess Act, 1880,² shall, for the purposes of this Act,³ [but subject to the provisions of Chapter III of Part III thereof] be under the control and administration of such District Board.

Ben. Act 1880.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. F of this Code.

² Printed note, page 629.

³ These words in square brackets in this section 73 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 80, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ The proviso to section 73 was repealed, in Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1904 (Ben. Act 5 of 1904), s. 2, and is omitted here. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 74-78A.)

74. It shall be lawful for the Lieutenant-Governor¹ from time to time to direct² that any road, bridge, channel, building or other property, movable or immovable, which is vested in Government and which is situated within a district shall, with the consent of the District Board of such district, and subject to such exceptions and conditions as the Lieutenant-Governor¹ may make and impose, be placed under the control and administration of the District Board for the purposes of this Act; and thereupon such road, bridge, channel, building or other property shall be under the control and administration of the District Board, subject to all exceptions and conditions so made and imposed and to all charges and liabilities affecting the same.

Government may place other property under District Boards.

75. Every road, building or other works constructed by a District Board from the District Fund shall be vested in the District Board by which it has been constructed.

Works constructed by District Board to be vested in it.

76. A District Board may agree with the person in whom the property in any road, bridge, tank, *ghat*, well, channel or drain is vested to take over the property therein, and after such agreement may declare, by notice in writing put up thereon or near thereto, that such road, bridge, tank, *ghat*, well, channel or drain has been transferred to the District Board.

District Board may, with consent of owners, take over and repair works.

Thereupon the property therein shall be vested in the District Board, and such road, bridge, tank, *ghat*, well, channel or drain shall thenceforth be repaired and maintained out of the District Fund.

77. Every District Board shall, at such times and in such form as the Commissioner may direct, submit a schedule of all public works subject to the control of, or vested in, such District Board.

District Board to submit schedules of public works.

78. It shall be the duty of every District Board to provide for the repair and maintenance of roads, bridges, water-channels and other works for directly improving communications which have been taken charge of by the District Board under this Act, or towards which it may have agreed to contribute; and for the construction of new roads, bridges, water-channels and other means of communication.

District Board to repair and maintain works.

78A. The District Board may, with the sanction of the Commissioner, turn, divert, discontinue or permanently close any road which is under the control and administration of, or is vested in, the District Board.

Power to turn, divert, discontinue or close road.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² For a list of orders made under section 74 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ Section 78A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 40, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part III.—Duties and Powers of Local Authorities.—

Chapter I.—Duties and Powers of District Boards.—
Secs. 79-82.)Miscellaneous
improvements.**79.** It shall be lawful for a District Board to take measures for, or to contribute towards—

the construction, repair and maintenance of any works which may directly improve the means of communication within the district or between the district and other districts;

the planting of trees by the roadside; and

the construction and maintenance of any means and appliances for improving the supply of drinking-water, or for providing or improving drainage.

District
Board may
construct
and maintain
railways or
tramways.**80.** It shall be lawful for a District Board, with the sanction of the Lieutenant-Governor,¹ either singly or in combination with any municipal authority or any other local authority, to construct and maintain within, or partly within and partly without, its own district, a railway or tramway under the provisions of any law² for governing the construction of railways or tramways for the time being in force in Bengal, and to do all lawful acts which may be necessary in that behalf.District Board
may subscribe
to debenture
loan to
construct and
maintain
railways or
tramways.**81.** It shall be lawful for a District Board, with the sanction of the Lieutenant-Governor,¹ to subscribe to any debenture loan raised by the Government of India or by any municipal authority or local authority for the construction or maintenance of any railway or tramway which, in the opinion of such District Board, is likely to be of direct benefit to the district.District Board
may guarantee
interest on
capital
expended on
works of
communica-
tion.**82.** It shall be lawful for the District Board, with the sanction of the³ [Governor General in Council,] from time to time to guarantee the payment from the District Fund of such sums as it shall think fit as interest on capital expended on any railways, tramways or other works which may directly improve the means of communication within the district or between the district and other districts:

‘[Provided that no application for the said sanction shall be made, in the case of a railway or tramway, unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1913 (7 of 1913), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² As to railways, see the Indian Railways Act, 1890 (9 of 1890), in General Acts, 1887-97, 22, 1909, p. 322. As to tramways, see the Bengal Tramways Act, 1888 (Ben. Act 8 of 1888), ante, p. 64.

³ These words “Governor General in Council,” in s. 82, were substituted for the words “Lieutenant-Governor,” for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 41 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 8, Sch. I.

⁴ This proviso was added to s. 82, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 41 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

[1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 83-86A.)

majority of not less than two-thirds of the members of the District Board have voted.]

83. It shall be lawful for a District Board from time to time to undertake, on behalf of the Government, and upon such conditions as may be agreed upon, the construction, repair and maintenance of any public building or other work which is the property of the Government:

District Boards may undertake construction, repair and maintenance of Government buildings.

Provided that the cost of such construction, repair or maintenance shall be defrayed by the Government.

84. Subject to the provisions of section 33 and to any rules made by the Lieutenant-Governor¹ under this Act, every District Board shall appoint a properly qualified person to be its engineer, and such and so many subordinate officers under his orders as it may think necessary.

District Board to appoint engineer and his subordinates.

85. It shall be the duty of the District Engineer to prepare all plans, designs, specifications and estimates which the District Board may require, to carry out such works as it may direct, and to conform generally to all rules that may be made by the District Board under section 32 or by the Lieutenant-Governor¹ under section 138.

Duties of District Engineer.

86. The powers of the District Board under sections 78 and 79 shall be subject to any rules made by the Lieutenant-Governor¹ under this Act regarding the submission for approval of plans, designs, specifications and estimates;

Powers of Boards under sections 78 and 79 to be subject to rules for approval of plans.

² [and the power of the District Board to make any contribution under section 79 shall be subject to any rules, made by the Lieutenant-Governor³ under this Act prescribing conditions precedent to the making of such contribution.]

‘D(1).—Tolls on Bridges.

‘86A. The District Board, with the sanction of the Lieutenant-Governor,⁴ may establish a toll-bar—

Power of District Board to establish toll-bars and levy tolls.

- (i) on any bridge in the district which has, after the date⁵ of the commencement of the Bengal Local Self-Government (Amendment) Act, 1908,⁶ been constructed or purchased out of the District Fund, or to

Ben. Act 5 of 1908.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² This clause was added to s. 86, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 42, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

⁴ This heading and ss. 86A to 86M were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 43, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ The 28th October, 1908.

⁶ Printed in Vol. III of this Code.

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 83-86A.)

the cost of the construction or purchase of which contribution has, after the said date, been made out of the District Fund; or

- (ii) on any road-way or foot-way of a railway-bridge which has, after the said date, at the instance of the District Board and out of the District Fund, been so constructed or widened as to allow the passage of persons, vehicles or animals; or
- (iii) at any place in the district, adjacent to any bridge referred to in clause (i) or clause (ii), at which tolls may conveniently be levied;

and may levy tolls at such toll-bar on persons, vehicles and animals passing over such bridge, road-way or foot-way:

Provided as follows—

- (1) no toll-bar shall be established, or tolls levied, otherwise than for the purpose of recovering—
 - (a) the expenses incurred by the District Board in constructing, purchasing, contributing to or widening such bridge, road-way or foot-way,
 - (b) the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or complete loss of receipts in respect of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way,
 - (c) interest on such expenses, at the rate of four *per centum per annum*, and
 - (d) the capitalized value of the estimated cost to the District Board of maintaining such bridge, road-way or foot-way, and of renewing it, if it requires periodical renewal;
- (2) no toll-bar shall be established, or tolls levied, on or in respect of any bridge, road-way or foot-way, the cost or estimated cost of which, as indicated in clauses (a), (b) and (d) of proviso (1), was or is less than ten thousand rupees.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 86B-86E.)

86B. The District Board may grant a lease, for any period not exceeding three years, of any toll-bar established under section 86A of this Act. Lease of toll-bar.

86C. When the District Boards of two adjacent districts, having jointly constructed, purchased or contributed towards the cost of the construction or widening of a bridge, roadway or foot-way, have received sanction under section 86A of this Act to the establishment of a toll-bar, the tolls shall be levied or granted in lease by such District Board as the Lieutenant-Governor¹ may, in his order according sanction, direct; and the proceeds of such tolls, or of the lease thereof, shall be adjusted between the two District Boards according to rules made in this behalf by the Lieutenant-Governor.² Procedure where two District Boards have contributed towards cost of bridge, etc.

86D. (1) The following persons and things shall be exempted from payment of tolls at any toll-bar established under section 86A of this Act, namely:— Exemptions.

- (a) Government stores and persons in charge thereof;
- (b) police-officers and other public officers travelling on duty, District Board officers so travelling, persons in the custody of any of the officers aforesaid, property belonging to or in the custody of any of the officers aforesaid, and vehicles and animals employed by any of the officers aforesaid for the transport of such persons or property;
- (c) conservancy carts and other vehicles and animals belonging to the District Board, and persons in charge thereof; and
- (d) any other class of persons or things which may be exempted by order of the District Board.

(2) In granting a lease of any toll-bar, the District Board may stipulate that any servants and property of the District Board and any other persons and things shall be exempted from payment of tolls thereat.

86E. (1) When it has been determined that tolls shall be levied at any toll-bar established under section 86A of this Act, the District Board shall make and publish an order specifying the rates at which the tolls shall be levied. Rates of tolls.

(2) Such rates shall be subject to the sanction of the Commissioner, and may from time to time be varied with the like sanction.

¹ Sections 86B to 86E are new—see foot-note 4 on p. 941, *ante*.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (1 of 1912), s. 8, and S.B. D. Item 1 in Vol. I of this Code.

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 86F-86M.)

Table of tolls
to be hung up.

86F. (1) A table of such tolls, legibly printed or written in the vernacular of the district, shall be hung up in some conspicuous position near every such toll-bar, so as to be easily readable by all persons required to pay the tolls.

(2) In default of compliance with sub-section (1) of this section, the toll-collector, or the lessee of the toll-bar, as the case may be, shall be liable to fine which may extend to fifty rupees, and to a further fine which may extend to ten rupees for each day after the first during which the default continues.

Power to
compound for
tolls.

86G. The District Board, or the lessee of any toll-bar, may compound with any person for a certain sum to be paid by such person for himself, or for any vehicles or animals kept by him, in lieu of the rates specified under section 86E of this Act.

Power of toll-
collector or
lessee in case
of refusal to
pay toll.
Penalty for
refusing to
pay toll.

86H. Any toll-collector or lessee of a toll-bar established under section 86A of this Act may refuse to allow any person to pass through the toll-bar until the proper toll has been paid.

86J. Whoever, having rendered himself liable to the payment of toll, refuses to pay the toll, shall be liable to fine which may extend to fifty rupees.

Police officers
to assist.

86K. If resistance is offered to any person authorized under this Chapter to collect tolls, any police-officer, whom he may call to his aid shall be bound to assist him; and such police-officer shall, for that purpose, have the same powers as he has in the exercise of his ordinary police duties.

Penalty for
taking un-
authorized
tolls.

86L. If any person authorized under this Chapter to collect tolls demands or takes any higher tolls than the tolls authorized under this Chapter, he shall be liable to fine which may extend to fifty rupees, and in default of payment, to imprisonment for a term which may extend to one month.

District Board
to publish
expenses, etc.,
of toll-bars.

86M. (1) When a toll-bar has been established and tolls have been levied, under section 86A of this Act, in respect of any bridge, roadway or foot-way, the District Board shall, at the end of each financial year, publish, by causing to be posted at their office, an abstract account showing—

- (a) the amount of the expenses incurred by the District Board in constructing, purchasing, contributing to or widening the bridge, road-way or foot-way;
- (b) the amount of the expenses incurred by the District Board in paying compensation to the owner of any private ferry for the partial or complete loss of income from such ferry, and in recouping itself for the partial or complete loss of receipts in respect

[1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 87-88A.)

of any public ferry referred to in clause (4) of section 52, when such loss results in either case from the construction of such bridge, or the construction or widening of such road-way or foot-way;

(c) the amount of interest which has accrued due on such expenses;

(d) the capitalized value of the estimated cost to the District Board of maintaining the bridge, road-way or foot-way, and of renewing it, if it requires periodical renewal; and

(e) the amount which has been received from the profits of the said toll-bar since its establishment.

(2) As soon as such expenses, interest and capitalized value have been recovered as aforesaid, such toll-bar shall be removed, and tolls shall no longer be levied in respect of such bridge, road-way or foot-way.

E.—Sanitation.

87. It shall be the duty of every District Board, subject to any rules made by the Lieutenant-Governor¹ under this Act, to provide, so far as may be possible, for the proper sanitation of its district, and to incur such expenses or undertake such liabilities as may be necessary in that behalf.

District Board to provide for sanitation.

88. A District Board may, with the approval of, and subject to such limits of cost as shall be imposed by, the Commissioner, provide any place within its district with a proper and sufficient supply of water, and for this purpose may—

General powers for supplying district with water.

(1) construct, repair and maintain water-works, wells or tanks, and do any other necessary acts;

(2) take on lease or hire any water-works and purchase any water-works, or any water, or right to take or convey water, either within or without its district; and

(3) contract with any person for a supply of water.

88A. A District Board may, with the sanction of the Lieutenant-Governor,² contribute such annual or other sum as may be agreed upon towards the cost of—

Power to contribute towards cost of municipal water-supply or prevention of plague.

(a) the construction, repair and maintenance, under the provisions of the Bengal Municipal Act, 1884³, of water-works, wells or tanks within the district, or

Ben. Act 8 of 1884.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² Section 88A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 44, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 8, Sch. I.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1 in Vol. I of this Code.

⁴ Printed ante, page 708.

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 89-91.)

- (b) taking measures under the said Act for the prevention of plague in the district:

Provided that no application for such sanction shall be made unless it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and in favour of which a majority of not less than two-thirds of the total number of members of the District Board have voted.

Public streams, channels, water-courses, tanks, reservoirs, springs and wells to be under control of District Board.

89. All streams, channels, water-courses, tanks, reservoirs, springs and wells situated within the district, and not being private property or under the control of any officer of the Government, shall, for the purposes of this Act, be under the control and administration of the District Board.

District Board may set apart tanks, parts of rivers, streams or channels for drinking and culinary purposes.

90. The District Board may, by an order duly published at such places and in such manner as it may deem fit, set apart convenient tanks, parts of rivers, streams or channels situated within the district, and not being private property or under the control of any officer of the Government, for the supply of water for drinking and for culinary purposes; and, from the date of publication of such order, such tanks, parts of rivers, streams or channels shall be held to be public springs or reservoirs.

Constitution and functions of Sanitation Committee, and appointment of Sanitary Inspector.

91. (1) Every District Board shall appoint, to be members of a Sanitation Committee, not more than five nor less than three members of the Board.

(2) The Civil Surgeon of the district shall be a member *ex officio* of the Sanitation Committee of his district.

(3) It shall be the duty of a Sanitation Committee, subject to the control of the District Board and to any rules made by the Lieutenant-Governor¹ under section 138, to initiate and supervise works connected with the sanitation of the district, and to exercise such of the powers of the District Board as may be delegated to it in accordance with such rules.

(4) The District Board shall also appoint a properly qualified person to be its Sanitary Inspector, and, subject to the provisions of section 33, fix the salary of such Sanitary Inspector and the details of the establishment subordinate to him.

¹ This section 91 was substituted for the original section 91, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1906 (Ben. Act 5 of 1906), s. 45, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 2, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, item 1, in Vol. I of this Code.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 92-97.)

(5) The Lieutenant-Governor¹ may, for reasons which may to him appear to be sufficient, exempt any District Board, wholly or partially, from the operation of this section.

F.—Vaccination.

92. Every District Board shall, within its district, be charged with the appointment, payment, management and supervision of all public vaccinators.

District Board to have supervision of vaccinators within their districts.

93. Every District Board shall appoint a properly qualified person to be Inspector of Vaccination within its district, and shall, subject to the provisions of section 33, fix the salary to be paid to such person.

District Board to appoint Inspectors of Vaccination.

Every Inspector of Vaccination appointed under this section shall, within the district, exercise the powers and perform the duties assigned to the Superintendent of Vaccination under the Bengal Vaccination Act, 1880.²

Ben. Act 5 of 1880.

Ben. Act 5 of 1880.

94. In every district to which the Bengal Vaccination Act, 1880³ has been, or may hereafter be, extended, the District Board shall have the powers of the Magistrate of the district under section 25 of the said Act.

District Board to have powers of Magistrate in district to which the Vaccination Act extends.

95. The Commissioner may, with the sanction of the Lieutenant-Governor,⁴ make rules consistent with this Act, and with the Bengal Vaccination Act, 1880,⁵ for the guidance of every District Board in the exercise of the powers conferred under the three last preceding sections, and may from time to time, with the like sanction, repeal or alter such rules.

Ben. Act 5 of 1880.

Commissioner to make rules for guidance of District Boards.

96. The four last preceding sections, so far as is consistent with the tenor thereof, shall be read with, and form a part of, the Bengal Vaccination Act, 1880.⁶

Ben. Act 5 of 1880.

Act to be read with the Bengal Vaccination Act.

G.—Census.

97. It shall be lawful for the Commissioner, with the sanction of the Lieutenant-Governor,⁷ at any time to require a District Board to make an account of the number of persons who, at the time of taking such account, shall be within the district of such District Board:

Commissioner may direct District Board to take a census.

Provided that no part of the cost incurred in taking such account shall be charged upon, or be defrayed out of, the District Fund.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

² Printed *ante*, page 468.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

[Ben. Act 8

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Secs. 98-99A.)

Powers for
taking census.

98. Every District Board which shall be required to take an account under the last preceding section shall, in taking such account, conform to any rules made by the Lieutenant-Governor¹ under this Act, and to the provisions of any Act for the time being in force for regulating the taking of a census.

H.—Famine² and Distress.

District Board
may take
relief
measures in
case of famine
or serious
distress.

99. It shall be lawful for a District Board, subject to such limit or expenditure as may be prescribed by the Commissioner, to take such measures as it thinks fit for the relief of famine³ [or serious distress] within its district, and for that purpose to—

- (1) open and maintain such relief works as may be necessary;
- (2) open and maintain such temporary hospitals, poor-houses, orphanages and places for the gratuitous distribution of food as may be necessary;
- (3) employ such extra medical or other assistance as may be necessary;
- (4) distribute such gratuitous relief, in the form of doles of money or food, as may be necessary.

Irrigation
works for
relief of
famine or
scarcity.

99A. It shall be lawful for a District Board, with the sanction of the Commissioner, to incur expenditure on any local irrigation work which may appear to it to be necessary for the purpose of preventing, or mitigating the effects of, famine or scarcity within its district:

Provided that no such expenditure shall be incurred unless such irrigation work has been sanctioned by the Lieutenant-Governor⁴ as a relief work in accordance with rules made under this Act.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

² These words "and Distress," in this heading over s. 99, were substituted for the word "Relief," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 46 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ These words "or serious distress," in s. 99, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 46 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ This clause (4) was added to s. 99, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 46 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), sec. 3, Sch. I.

⁵ Section 99A was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 47, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁶ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter I.—Duties and Powers of District Boards.—
Sec. 100.)

I.—Miscellaneous.

100. It shall be lawful for a District Board, with the approval of the Commissioner, and ¹[subject to such rules and restrictions as the Lieutenant-Governor² may from time to time prescribe] under this Act, to—

Miscellaneous powers of District Board.

(1) establish and maintain, at such places within its district as it thinks fit, staging bungalows and *sarais* for the use of travellers, and charge such fees for the use of such bungalows and *sarais* as it thinks fit;

Staging bungalows and sarais.

Provided that such fees shall in no case exceed the amount prescribed by the Commissioner;

(2) offer rewards, upon such scale as may be approved by the Commissioner, for the destruction of noxious animals within the district;

Rewards for destruction of noxious animals.

(3) hold, within ³[the] district, from time to time, fairs and exhibitions of cattle, country produce and agricultural implements, or local manufactures, and incur such expenditure and charge such fees in connection therewith as may from time to time be approved by the Commissioner;

Fairs and exhibitions.

⁴(3a) establish and maintain veterinary dispensaries for the reception and treatment of horses, cattle and other animals, and charge such fees for the use of dispensaries as may from time to time be approved by the Commissioner;

Veterinary dispensaries.

⁵(3b) appoint and pay qualified persons to prevent and treat disease of horses, cattle and other animals;

Treatment of diseases of animals.

⁶(3c) provide for the improvement of the breed of horses, cattle and asses, and for the breeding of mules;

Breeding of animals.

⁷(3d) make grants-in-aid of measures for improving agriculture or for carrying out any of the objects specified in clause (3a) or clause (3c) and

Grants-in-aid of agricultural and veterinary improvements.

(4) undertake and carry out any other local work likely to promote the health, comfort or convenience of the public, and not otherwise provided for by this Act.

Works not otherwise provided for.

¹ These words in square brackets in s. 100 were substituted for the words "subject to any rules made by the Lieutenant-Governor," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 48 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 4, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Item 1, in Vol. I of this Code.

³ This word "the," in s. 100 (3), was substituted for the word "its," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 48 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 4, Sch. I.

⁴ Clauses (3a) to (3d) were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 48 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 4, Sch. I.

(Part III.—Duties and Powers of Local Authorities.—
 Chapter II.—Duties and Powers of Local Boards.—
 Chapter III.—Duties and Powers of Union Committees.—
 Secs. 101-104.)

CHAPTER II.

DUTIES AND POWERS OF LOCAL BOARDS.

Duties of
Local Board.

101. The Lieutenant-Governor,¹ or, subject to his control, a District Board, may direct that within the area subject to the authority of a Local Board, any matter placed under the control and administration of the District Board under this Act shall be wholly or partly transferred to the control and administration of the Local Board, with adequate funds for the purposes of such control and administration.

A Local Board, as the agent of, and subject to the control of, the District Board, shall, so far as the funds at its disposal permit, make due provision for all matters transferred to its control and administration under this section.

It shall be the duty of the District Board to enforce the responsibility imposed on a Local Board by this section.

Limits on
expenditure
of Local
Board.

102. Except as otherwise provided by this Act, a Local Board shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the District Board.

Returns by
Local Board.

103. * * * * * It shall be the duty of the Local Board to procure and submit, in such form as the District Board may prescribe, all such reports, returns and statistics as the District Board may from time to time require.

CHAPTER III.

DUTIES AND POWERS OF UNION COMMITTEES.

Union
Committee
to be
subordinate
to District
Board.

104. A Union Committee, as the agent of, and subject to the control of, the ¹[District Board], shall, within the Union, have the control and administration of, and be responsible for, all matters specified in this Chapter, except such of those matters as the ¹[District Board] may think fit to take under its direct control and administration.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912) s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

* The words "A Local Board shall exercise powers of supervision and control over all Union Committees within the area under its authority, and" were repealed, in Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 3, and are omitted. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 2, Sch. I.

* These words "District Board," in s. 104, were substituted for the words "Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 43, in Part III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 2, Sch. I.

of 1908.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
Secs. 105-108.)

105. Every Union Committee shall submit annually to the ¹[District Board], on or before such date as the ¹[District Board] may appoint, ¹[an estimate of the probable receipts and expenditure of the Committee under each head of account] for the ensuing financial year, and an account of its receipts and expenditure for the past financial year; and shall also submit any other reports which the ¹[District Board] may from time to time require.

Union Committee to submit reports, estimates and accounts to District Board.

¹Every estimate submitted under this section shall be subject to the sanction of the District Board, who may, before sanctioning any estimate, modify it as they may think fit.

106. A Union Committee shall not incur expenses, or undertake liabilities, to any amount exceeding the limit imposed by the ¹[District Board].

Limits on expenditure of Union Committee.

107. Every Union Committee shall, within such time as the ¹[District Board] may direct, forward to such ¹[District Board] a schedule of all village-roads ²[and bridges thereon] within the Union.

Union Committee to send schedule of roads and bridges to District Board.

Such schedule shall state the length and width of the roads, the number, description and dimensions of bridges, and such other particulars as the ¹[District Board] may require.

108. All village-roads ³[and bridges thereon] within a Union, and the stones and other materials thereof, and also all erections, materials, implements and other things provided for such roads ⁴[and bridges], shall be placed under the control and administration of the Union Committee.

Village-roads and bridges placed under control and administration of Union Committee.

¹ These words "District Board," in ss. 105, 106 and 107, were substituted for the words "Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 50 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² These words in square brackets in s. 105 were substituted for the words "an estimate of the probable expenditure of the Committee," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 50 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ This clause was added to s. 105, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 50 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ These words "and bridges thereon," in s. 107, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 50 (4), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ These words "and bridges thereon," in s. 108, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 51 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁶ These words "and bridges," in s. 108, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 51 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
Secs.—109-112.)

Maintenance
and repair of
village-roads
and bridges.

109. A Union Committee shall, so far as the Union Fund permits, from time to time cause the village-roads¹ [and bridges thereon] to be maintained and repaired, and may do all things necessary for such purpose, and may—

- (a) lay out and make new village-roads;
- (b) build and construct new bridges;
- (c) turn, divert, discontinue or stop up any village road² [or bridge thereon]; and
- (d) widen, open, enlarge or otherwise improve any such road³ [or bridge thereon].

District
Board may
delegate
management
of portions of
district roads
to Union
Committee.

110. The⁴ [District Board] may, with the consent of a Union Committee, delegate to such Committee the management of so much of any road under the management of the [District Board or of a Local Board] as may be situated within such Union; and such Union Committee shall thereupon do all things necessary for the maintenance and repair of the portion of road so assigned to it, and shall be responsible to the [District Board] in that behalf.

'ounds.

111. Every Union Committee shall perform such functions as may be transferred to it by notification under section 31⁵ of the Cattle-trespass Act, 1871.

'rimary
schools.

112. Subject to any rules made by the Lieutenant-Governor⁶ under this Act, every Union Committee shall be charged with, and be responsible for, the maintenance and management of all primary schools within the Union, the appointment (subject to section 36) of the *gurus* of such

1 of 1871.

¹ These words "and bridges thereon," in s. 109 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 51 (f), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

² These words "or bridge thereon," in clauses (c) and (d) of s. 109, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 51 (g), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

³ These words "District Board," in s. 110, were substituted for the words "Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 52 (a), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁴ These words in square brackets in s. 110, were substituted for the words "Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 53 (b), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁵ This section 111 was substituted for the original s. 111, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 54, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁶ Printed in General Acts, 1868-78, Ed. 1908, p. 148.

⁷ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Parts 1 and 2, in Vol. I of this Code.

[1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
Secs. 113-116.)

schools, and the transmission to such *gurus* of any rewards that may be granted by the District Board or Local Board.

113. Subject to any rules made by Lieutenant-Governor¹ under this Act, a Union Committee may, with its own consent, be charged with, and made responsible for, the maintenance, management and visiting of any dispensary within the Union. Dispensaries.

114. A Union Committee shall, if required to do so by the Magistrate of the district, provide for the registration of births and deaths² within the Union, and shall submit such returns thereof as the said Magistrate may direct. Registration of births and deaths.

115. Every Union Committee shall, subject to the control of the District Board, and in accordance with rules made by the Lieutenant-Governor³ under this Act,— Duties of Union Committee as to sanitation, conservancy and drainage.

- (1) provide, as far as possible, for the sanitation and conservancy of the Union and the prevention of public nuisances therein;
- (2) make special arrangements for the sanitation and conservancy of fairs and *mélas* held within the Union;
- (3) have control of all drains and other conservancy works within the Union which are not under the control of any other authority; and
- (4) execute all works which are necessary for improving the sanitation, conservancy or drainage of the Union:

Provided that the District Board may itself undertake any such work which, by reason of its magnitude, or of the amount of expense likely to be incurred thereon, cannot, in the opinion of the District Board, be satisfactorily executed by the Union Committee.

116. (1) If it appears to the Union Committee that, for any reason, it is necessary to improve the sanitary condition of any village or part of a village within the Union, the Committee may, in accordance with a scheme approved by the District Board and sanctioned by the Commissioner Powers of Union Committee as to sanitation, conservancy and drainage.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² This section 114 was substituted for the original section 114, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 54, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 3, Sch. I.

³ As to the registration of births and deaths, see the Bengal Births and Deaths Registration Act, 1878 (Ben. Act 4 of 1878), ante, p. 281.

⁴ These sections 115 to 119 were substituted for the original sections 115 to 119, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 55, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act. I of 1914), s. 3, Sch. I.

⁵ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

(Part III.—*Duties and Powers of Local Authorities.*—
Chapter III.—Duties and Powers of Union Committees.—
Sec. 117.)

under rules made by the Lieutenant-Governor¹ under this Act,—

- (a) cause huts or privies to be removed either wholly or in part;
- (b) cause private drains to be constructed, altered or removed;
- (c) cause streets, passages and public drains to be constructed or widened;
- (d) cause tanks or low lands to be filled up or deepened; and
- (e) cause such other improvements to be made as, in its opinion, are necessary to improve the condition of such village or part.

(2) The Union Committee may, by written notice,—

- (i) require the owner or occupier of any hut, or the owner of any privy, to remove such hut or privy, either wholly or in part, in pursuance of clause (a) of sub-section (1); or
- (ii) require the owner or occupier of any building to construct private drains therefor, or to alter or remove private drains thereof, in pursuance of clause (b) of sub-section (1),

within a period to be specified in the notice.

(3) If any work required by any such notice is not executed within the period specified in the notice, the Union Committee may themselves cause such work to be carried out.

(4) All expenses incurred by the Union Committee under sub-section (1) or sub-section (3), including such reasonable compensation as the Committee may think fit to pay to the owners or occupiers of huts or privies removed, shall be met out of the Union Fund.

Cleansing of
villages.

² 117. (1) The Union Committee may, with the sanction of the District Board, employ a special establishment for the cleansing of any village within the Union.

(2) If any village for which no establishment is maintained under sub-section (1) appears to the Union Committee to be in a filthy condition, the Committee may, by written notice, require the persons who occupy buildings in the village to cleanse their holdings to the satisfaction of the Committee within a period to be specified in the notice.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912² (7 of 1912), s. 3, and Sch. B, Item 1, in Vol. I of this Code.

² This section 117 is new—see foot-note * on p. 953 ante.

of 1885.]

*(Part III.—Duties and Powers of Local Authorities.—**Chapter III.—Duties and Powers of Union Committees.—*
Sec. 118.)

(3) If any person on whom notice has been served under sub-section (2) fails to comply with the requisition contained in the notice, the Union Committee shall, unless reasonable cause to the contrary is shown, cause his holding to be cleansed, and

recover from such person such portion of the costs of such cleansing as may be approved by the Sanitation Committee, as if the same were an arrear of the assessment imposed under the Village-chankidari Act, 1870¹

Ben. Act 6 of 1870.

118. (1) The Union Committee may subject to rules made by the Lieutenant-Governor⁴ under this Act, by written order,—

Power of Union Committee to control building, and penalties for disobedience

(a) direct, in accordance with a scheme approved by the District Board and sanctioned by the Commissioner, in respect of any village, that no building which it is proposed to erect in such village, and no addition to any existing building therein, shall be placed in advance of an alignment to be prescribed by the Committee and demarcated on the ground, and

(b) prescribe, in accordance with the said scheme, the space which shall intervene between each new building and between new buildings and any road in the village.

(2) Where any building, or any addition thereto, has been placed in contravention of an order passed by the Union Committee under sub-section (1), the Union Committee may apply to the District Magistrate, and such Magistrate may make an order—

(i) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished by the owner of the building or altered by him to the satisfaction of the Committee, as the case may require, or

(ii) directing that the work done, or so much of the same as has been executed in contravention of the order passed under sub-section (1), be demolished or altered by the Union Committee at the expense of the owner :

¹ Printed *ante*, page 175.

² The words "or, where the Chota Nagpur Rural Police Act, 1887, is in force, under that Act" which were repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Ser. IV, are omitted.

³ This section 118 is new—see foot-note 4 on p. 958, *ante*.

⁴ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, item 1, in Vol. I of this Code.

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
Sec. 118A.)

Provided that the Magistrate shall not make any such order without giving the owner and occupier full opportunity of adducing evidence and of being heard in defence.

(3) If any person to whom a direction to demolish or alter any building is given under sub-section (2), clause (i), fails to obey the same, he shall be liable to fine which may extend, in the case of a masonry building, to one hundred rupees, and, in the case of any other building, to twenty rupees, and to further fine which may extend, in the case of a masonry building, to ten rupees, and in the case of any other building, to two rupees, for each day during which he so fails after the first day.

Water-supply.

118A. (1) A Union Committee may provide the Union, or any part thereof, with a supply of water proper and sufficient for public and private purposes; and, for the purposes of this section, may—

- (a) construct, repair and maintain tanks or wells, clear out streams or water-courses, and do any other necessary acts;
- (b) with the sanction of the District Board, purchase or acquire by lease any tank, well, stream or water-course, or any right to take or convey water, within or without the Union;
- (c) with the consent of the owner thereof, utilize, cleanse or repair any tank, well, stream or water-course within the Union, or provide facilities for obtaining water therefrom;
- (d) deal with any tank, well, pool, ditch, drain or place containing, or used for the collection of, any drainage, filth, stagnant water or matter likely to be prejudicial to health—by draining or cleansing it, or otherwise preventing it from being prejudicial to health, but not so as in any case to interfere with any private right; or
- (e) contract with any person for a supply of water.

(2) When a Union Committee has, under clause (c), with the consent of the owner, cleansed or repaired or provided facilities for obtaining water from any tank, well, stream or water-course, the same shall, subject to any rights retained by the owner, with the concurrence of the Committee, be reserved for drinking and culinary purposes, and shall be kept open to access by the public.

¹ Section 118A is new—see foot-note ² on p. 958, ante.

of 1885.]

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
Secs. 118B, 118C.)

(3) Any tank, well, stream or water-course which a Union Committee may construct, repair, or maintain under clause (a), or purchase or acquire by lease under clause (b), shall remain under the control and administration of the Union Committee; and the Committee may, by order duly published in the village or villages in which such tank, well, stream or water-course is situated, set apart the same, or, subject to the provisions of clause (c), any other tank, well, stream or water-course within the Union, for the supply of water for drinking and culinary purposes.

¹118B. The Union Committee, or any member, officer or servant thereof, may enter into or upon any building or land, with or without assistants or workmen, in order to make any inspection or execute any work for the purposes of, or in pursuance of, section 115, section 116, section 117, section 118 or section 118A: Power of entry.

Provided as follows:—

- (a) no such entry shall be made between sunset and sunrise;
- (b) no dwelling-house shall be so entered, unless with the consent of the occupier thereof, without giving the said occupier at least twenty-four hours' previous written notice of the intention to make such entry; and
- (c) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

¹118C. (1) If the income of the Union Committee from other sources is insufficient to meet the expenses incurred, or likely to be incurred, by the Committee in carrying out its duties or exercising its powers under section 115, section 116, section 117, section 118 or section 118A, Method of meeting cost of works of sanitation, drainage and conservancy of villages.

the committee may, from time to time, impose on the owners of buildings, tanks, wells or water-courses, or the occupiers of buildings, within the Union, or in any village therein, such assessment as may be required approximately to meet the deficiency, together with ten *per cent.* above such sum to meet the expenses of collection and losses due to non-realization of their shares from defaulters:

Provided that such assessment shall not be imposed unless—

- (i) it is authorized by a resolution which has been passed at a meeting specially convened for the purpose and

¹ Sections 118B and 118C are new—see foot-note ⁴ on p. 958, ante.

[Ben. Act 3]

(Part III.—Duties and Powers of Local Authorities.—
Chapter III.—Duties and Powers of Union Committees.—
Sec. 118D.)

in favour of which a majority of not less than two-thirds of the members of the Union Committee have voted, and

(ii) it is previously sanctioned by the District Board and the Commissioner.

(2) The Union Committee shall appoint one of their number, or any other person, to receive and collect the said assessment, and to grant receipts for the same and to keep the accounts thereof; and may permit the person so appointed to retain any sum, not exceeding five *per cent.* of the amount collected by him, to repay the costs of such collection.

(3) The provisions of sections 15 to 19, 25 to 29, 31 to 34, 46A, 46B and 63 of the Village-chaukidari Act, 1870¹ shall apply to such assessment and the payment and recovery thereof;

Ben. Act 6 of 1870.

Provided as follows—

(a) all references in any of the said sections of the Village-chaukidari Act, 1870,¹ to a *panchayat* shall be construed as references to the Union Committee;

Ben. Act 6 of 1870.

(b) the references in section 46B of the said Village-chaukidari Act, 1870,¹ to the *chaukidari* assessment shall be construed as references to the assessment imposed under this section;

Ben. Act 6 of 1870.

(c) * * * * *

(d) the amount to be assessed on any one person shall not exceed five rupees *per mensem*;

(e) the amount assessed on any person may be made payable either in lump or in periodical instalments; and

(f) the proceeds of the said assessment shall be credited to the Union Fund.

Appeals
against orders,
awards and
assessments.

‘118D. Any person who is aggrieved by any order of a Union Committee—

(i) directing such person to take any action with regard to his property under sub-section (2) of section 116, sub-section (2) of section 117, or sub-section (1) of section 118, or

¹ Printed *ante*, page 176.

² The words and figures “or, where the Chota Nagpur Rural Police Act, 1887, is in force the provisions of sections 9, 10, 18, 15 to 18, 20, 21, 24 and 26 of that Act” in sub-section (3) of section 118 C, were repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and are omitted.

³ Clause (c) of the proviso to s. 118 C was repealed by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 6, Sch. IV, and is omitted.

⁴ Section 118D is new—see foot-note 4 on p. 953, *ante*.

of 1885.]

(Part III.—*Duties and Powers of Local Authorities.*—
Chapter III.—Duties and Powers of Union Committees.—
 Part IV.—*Control.*—*Secs. 119-121.*)

- (ii) awarding or refusing to award compensation to such person under sub-section (4) of section 116, or
- (iii) making an assessment in respect of any property of such person in accordance with the provisions of section 118C.

may within three months from the date of such order, appeal to a sub-committee of members of the District Board to be constituted under clause (c) of section 32 of this Act; and the decision of such sub-committee shall, subject to the exercise of a power of revision at the discretion of the Commissioner, be final.

¹119. (1) Notwithstanding anything in the foregoing provisions of this Act, the District Board may, by order in writing, with the sanction of the Commissioner, direct that any specified Union Committee shall act as the agent of, and shall be subject to the control of, a Local Board, instead of the District Board, either for all purposes or for the purposes specified in the order.

Power of District Board to subordinate Union Committee to Local Board.

(2) Any order made under sub-section (1) may, with the like sanction, be revoked.

(3) So long as an order made under sub-section (1) with respect to any Local Board continues in force, the references to the District Board in the foregoing sections of this Act shall, so far as may be necessary, be read as if made to such Local Board.

PART IV.—Control.

120. It shall be the duty of the Lieutenant-Governor² and of all Commissioners and Magistrates of districts, acting under the orders of the Lieutenant-Governor,² to see that the proceedings of local authorities are in conformity with law and with the rules in force thereunder.

The Lieutenant-Governor² may, by order in writing, annul any proceeding which he considers not to be in conformity with law and with the said rules, and may do all things necessary to secure such conformity.

121. Every local authority shall at all times permit the Commissioner or the Magistrate of the district to have access to all its books, proceedings and records.

Powers of Lieutenant-Governor and of Commissioners and of Magistrates of districts with respect to proceedings of local authorities.

Records to be open for inspection of Commissioner or of Magistrate of district.

¹ Section 119 is new—see footnote ⁴ on p. 955, ante.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 2, and Sch. D, Items 1 and 2, in Vol. I of this Code.

(Part IV.—Control.—Secs. 122-125.)

Power of
Commissioner
or of Magis-
trate to in-
spect works.

Appointment
of Inspector
of Local
Works,
and duties to
be performed
by him.

Power to
suspend
action of
local author-
ities by
Magistrate of
District and
Commis-
sioner.

Power to
provide for
performance
of duties in
case of default
by District
Board.

122. The Commissioner or the Magistrate of the district shall have power at all times to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by, or any work in progress under the orders of, or any institution controlled by, a local authority.

123. It shall be lawful for the Lieutenant-Governor¹ to appoint an officer to be Inspector of Local Works in each Commissioner's division, or in more than one such division, and to sanction an establishment for such officer.

It shall be the duty of the Inspector of Local Works to inspect and advise with regard to all public works under construction or repair vested in, or in charge of, any local authority within the division.

The Inspector of Local Works shall also perform such duties and exercise such powers as may be assigned to him by any rules made by the Lieutenant-Governor¹ under this Act.

The Inspector of Local Works may at all times enter upon, or cause to be entered upon, any immovable property belonging to any local authority in the division, or any work in progress under its direction, and may require it to furnish such statements, estimates and reports as he thinks fit.

A report of every inspection shall be prepared and a copy thereof forwarded to the District Board concerned, through the Magistrate of the district.

In all matters of professional detail the local authority shall be guided by the report of the Inspector of Local Works.

124. The Magistrate of the district, or the Commissioner, may, by order in writing, suspend the execution of any order or resolution of a local authority within the jurisdiction of such Magistrate or Commissioner, or the doing of any act which is about to be done, or is being done, by such local authority, if in his opinion the execution of the resolution or order, or the doing of the act, is likely to cause injury or annoyance to the public, or to any class or body of persons, or to lead to a breach of the peace.

125. When the Commissioner is informed, on complaint made or otherwise, that a District Board has made default in performing any duty imposed on it by or under this Act, the Commissioner, if satisfied, after due inquiry, that such District Board has made default as alleged, may, by order in writing fix a period for the performance of that duty.

If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the District Board.

¹ No 9 of the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code

of 1908.]

(Part IV.—Control.—Secs. 126-130.)

If the expense and remuneration are not so paid, the Commissioner may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance: and such person shall make payment accordingly.

126. In case of emergency the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a local authority is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the District Board.

Extraordinary powers in case of emergency.

If the expense and remuneration are not so paid, the Magistrate may make an order directing the person having the custody of the balance of the District Fund to pay the expense and remuneration, or as much thereof as is possible, from that balance; and such person shall make payment accordingly.

127. When the Magistrate of the district makes any order under sections 124 or 126, he shall forthwith submit to the Commissioner a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Commissioner may thereupon confirm, modify or rescind the order.

Magistrate's order under sections 124 and 126 to be reported to Commissioner, who may confirm, modify or rescind it.

128. In every case under the last preceding section in which the Commissioner confirms or modifies any order, he shall forthwith submit to the Lieutenant-Governor¹ a copy of the proceedings, and the Lieutenant-Governor¹ may thereupon confirm, modify or rescind the order of the Commissioner.

Commissioner's proceedings to be submitted to Lieutenant-Governor for final orders.

129. When the Commissioner makes any order under section 124 or 125, he shall forthwith submit to the Lieutenant-Governor¹ a copy of the order, with a statement of his reasons for making it, and with any explanation which the local authority concerned may wish to offer, and the Lieutenant-Governor¹ may thereupon confirm, modify or rescind the order.

Commissioner's orders under sections 124 and 125 to be submitted to Lieutenant-Governor.

130. All powers conferred upon Commissioners and Magistrates of districts in regard to District Boards by sections 124² [125] and 126 shall be exercised,

Powers and duties of Commissioner and Magistrate of district transferred to District Board and Local Board.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.
² These figures "125," in this paragraph of s. 130, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 56 (a), in Vol. XII of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part IV.—Control.—Secs. 131, 132.)

in respect of a Union Committee, ¹[by the District Board or the Local Board to which the Committee may have been declared, by an order under section 119, to be, for the purposes of this section, subordinate], and,

in respect of a Local Board, by the District Board.

When a Local Board makes any order under this section, it shall forthwith submit to the District Board a copy of the order, with a statement of its reasons for making it, and with any explanation which the Union Committee concerned may wish to offer.

The District Board may thereupon confirm, modify or rescind the order.

When a District Board makes any order under this section, it shall forthwith submit to the Magistrate of the district, for submission to the Commissioner, a copy of the order, with a statement of its reasons for making it, and with any explanation which the Local Board ²[or Union Committee] may wish to offer.

If the Commissioner is dissatisfied with the order, he may report the matter to the Lieutenant-Governor: ³ who may thereupon confirm, modify or rescind the order.

Power of
Lieutenant-
Governor to
supersede
District Board
or Local Board
or Union
Committee
in case of
incompetency
or wilful
neglect of
duty.
Consequences
of superses-
sion.

131. If a District Board or Local Board ⁴[or Union Committee] is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act, or exceeds or abuses its powers, the Lieutenant-Governor ⁵may, by notification, specifying the reason for so doing, supersede such District Board or Local Board ⁶[or Union Committee] for a period to be specified in such notification.

132. When a District Board or Local Board ⁶[or Union Committee] is superseded under the last preceding section, the following consequences shall ensue—

- (a) all members constituting the District Board or Local Board ⁶[or Union Committee] shall, from the date of the notification, vacate their offices as such members;

¹ These words in square brackets in this paragraph of s. 130 were substituted for the words "by the Local Board," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 56 (b), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² These words "or Union Committee," in this paragraph of s. 130 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 56 (f), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

⁴ These words "or Union Committee" in s. 131 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 57, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ These words "or Union Committee," in s. 132, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 3 of 1908), s. 58 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

of 1885.]

(Part IV.—Control.—Secs. 133, 134.)

- (b) all powers and duties of the District Board or Local Board ¹[or Union Committee] may, until such District Board or Local Board ¹[or Union Committee] is re-constituted, be exercised and performed by such person or persons as the Lieutenant-Governor² may from time to time appoint in that behalf;
- (c) when a District Board is superseded, all property vested in it shall, pending the re-constitution of the Board, be vested in the Lieutenant-Governor.³

On the expiration of the period of supersession specified in the notification, the Board ³[or Committee] shall be re-established, and the persons who vacated their offices under clause (a) shall be eligible for appointment or election.

Nevertheless it shall be lawful for the Lieutenant-Governor² to direct that a Local Board re-established under this section shall consist entirely of appointed members, although such Local Board may have been established in the district mentioned in the third Schedule of this Act.

133. (1) If a dispute arises between two or more Union Committees which are subordinate to the same District Board, or which have been declared by any order under section 119 to be, for the purposes of this section, subordinate to the same Local Board, the matter shall be referred to such District Board or Local Board, as the case may be; and the decision of the Board thereon shall be final and binding.

Disputes
between two
or more
Union
Committees
when to be
referred to
District
Board or
Local Board.

(2) If a dispute arises between two or more Union Committees within the same district, and such Committees have not all been so declared to be subordinate to the same Local Board, the matter shall be referred to the District Board; and the decision of the District Board thereon shall be final and binding.

134. (*Disputes between two or more Union Committees under the authority of different Local Boards to be referred to District Board when Local Boards cannot agree.* Rep. in Western Bengal by the Bengal Local Self-Government (Amendment), Act, 1908, s. 59. That Act was extended to

¹ These words "or Union Committee," in s. 132, were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 58 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, Items 1 and 2, in Vol. I of this Code.

³ These words "or Committee" in s. 132 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 58 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ This section 133 was substituted for the original sections 133 and 134, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 59, in Vol. III of this Code. The Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

(Part IV.—Control.—Secs. 135-138.)

Eastern Bengal by the Bengal Laws Act, 1914 (Bengal Act I of 1914), s. 3, Sch. I.

Disputes between two or more Local Boards to be referred to District Board.

135. If a dispute arises between two or more Local Boards within the area under the authority of a District Board, the matter shall be referred to the District Board, and the decision of such District Board upon the matter so referred shall be final and binding.

Disputes between municipal authorities or local authorities in the same district to be referred to Magistrate of district.

136. If a dispute arises between a municipal authority or authorities and a local authority or authorities within the same district, the matter shall be referred to the Magistrate of the district, and the decision of the Magistrate upon the matter so referred shall be final and binding:

Provided that, if the Magistrate is a member of one of the authorities concerned, his functions under this section shall be discharged by the Commissioner.

Decision of disputes not otherwise provided for.

137. If any dispute, for the decision of which this Act does not otherwise provide, arises between two or more local authorities, or between a local authority or authorities and a municipal authority or authorities, the matter shall be referred—

- (a) to the Commissioner or Commissioners of the Division or Divisions, if the local authorities concerned are in different districts; and
- (b) to the Lieutenant-Governor,¹ if the local authorities concerned are in different divisions and the Commissioners of those divisions cannot agree.

And the decision of the Commissioner or Commissioners, or of the Lieutenant-Governor,¹ as the case may be, upon the matter so referred shall be final and binding.

Power of Lieutenant-Governor to make rules.

138. It shall be lawful for the Lieutenant-Governor¹ to make rules,² consistent with this Act, for any District Board or Local Board or Union Committee for the purposes of—

- (a) determining the mode and time of appointment or election of members of Boards and Committees, the term of office and the qualifications and disqualifications of such members, and the qualifications and disqualifications and the registration of voters and candidates, and generally for regulating all elections under this Act³ [and determining the authority who shall decide disputes relating to such elections];

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, Sch. D, items 1 and 2, in Vol. I of this Code.

² For lists of rules made under section 138 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ These words in square brackets were added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (1), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

of 1885.]

(Part IV.—Control.—Sec. 138.)

- (b) regulating the conduct¹ of proceedings of Boards and Committees, including the manner in which the notices of a meeting shall be given, the fixing of a quorum, the due record of proceedings and the language in which business shall be transacted;
- (c) fixing the time within which a Chairman or Vice-Chairman may be elected;
- (d) regulating the powers of District Boards to transfer property;
- (e) regulating the powers of Boards and Committees to contract and do other things necessary for the purposes of their constitution and the mode of executing contracts;
- (f) determining the ¹[intermediate] offices, if any, through which correspondence between Boards and Committees, or members of Boards and Committees, and the Lieutenant-Governor² or his officers, shall pass;
- (g) prescribing the qualifications of candidates for employment under section 33, ³[and declaring what circumstances shall be a disqualification for continuance of employment under that section];
- (h) prescribing the times for holding meetings and for submitting statements, estimates, reports or accounts under sections 46 and 47;
- ⁴(h1) prescribing the conditions on which a house and land may be acquired or on which land may be acquired and a house constructed, by the District Board, for the residence of the District Engineer, and the terms on which the District Engineer may be required to occupy the same;
- ⁴(h2) regulating the application of the balance of the District Fund mentioned in clause (1) of section 52 of this Act to objects other than those mentioned in section 109⁵ of the Cess Act, 1880, as amended by this Act.
- (i) prescribing forms for statements, estimates and accounts and regulating the keeping, checking and publication of such accounts and the manner of periodical audit under sections 54 and 55;

Ben. Act 9 of 1880.

¹ This word "intermediate" was substituted for the word "immediate," for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (2), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, Sch. D, items 1 and 2, in Vol. I of this Code.

³ These words in square brackets in clause (g) were added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁴ Clauses (h1) and (h2) were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (4), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

⁵ Printed *vide*, page 580.

(Part IV.—Control.—Sec. 138.)

- (j) regulating the maintenance and management of schools under sections 62, 63 and 64, the construction and repair of buildings connected therewith, and the appointment of masters and assistant masters, and the proper distribution of funds transferred to District Boards under section 65;
- ¹ (j1) prescribing the conditions subject to which grants-in-aid may be made under section 63 or section 64A;
- ¹ (j2) regulating the provision, maintenance and management of students' hostels under section 64A;
- ¹ (j3) prescribing the powers and duties of Education Committees, and regulating the removal of members from office;
- ² (j4) regulating the grant of scholarships established under section 64 A;
- (k) regulating the control and administration of dispensaries, hospitals and places of reception for the sick, the construction and repair of buildings connected therewith, and the supply of medicines and medical assistance for the poorer inhabitants of the district, ³[the training and employment of compounders, midwives and veterinary practitioners, and the promotion of free vaccination];
- (l) prescribing the procedure to be adopted in the appointment of the Engineer to the District Board under section 84, and regulating the performance and exercise of the duties and powers of such Engineer and of the Inspector of Local Works under sections 85 and 123, respectively;
- (m) regulating the submission for approval of plans, designs, specifications and estimates under section 86, ⁴[and prescribing conditions precedent to the making of any contribution under section 79];

¹ Clauses (j 1), (j 2) and (j 3) were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (5), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Eastern Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

² Clause (j 4) was inserted by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914) s. 5, Sch. III, in Vol. III of this Code.

³ These words in square brackets in clause (k) were added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (8), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5, Sch. I.

⁴ These words in square brackets in clause (m) were added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (7), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 5, Sch. I.

of 1908.]

(Part IV.—Control.—Sec. 138.)

- ¹(m1) prescribing, for the purposes of section 86A of this Act, the mode of ascertaining the capitalized value of the estimated cost to the District Board of maintaining bridges, road-ways or foot-ways, and of renewing any bridge, road-way or foot-way which requires periodical renewal, and the mode of determining what classes of bridges, road-ways or foot-ways require periodical renewal;
- ¹(m2) prescribing, for the purposes of section 86C, the method in which the proceeds of tolls, or of the lease thereof, shall be adjusted between the District Boards of adjacent districts;
- (n) regulating the duties and powers of District Boards ²[and Sanitation Committees] in regard to sanitation;
- (o) regulating the duties of District Boards in regard to taking a census;
- ³(ol) regulating the duties of District Boards in regard to the relief of famine, serious distress or scarcity;
- (p) regulating the establishment and maintenance of staging bungalows and *sarias*, the holding of fairs and exhibitions, the offer of rewards for the destruction of noxious animals, ⁴[the establishment and maintenance of veterinary dispensaries, the appointment and payment of qualified persons to prevent and treat diseases of horses, cattle and other animals, the improvement of the breed of horses, cattle or asses and the breeding of mules, the making of grants-in-aid under clause (3d) of section 100 of this Act], and the carrying out of any other work likely to promote the health, comfort or convenience of the public;
- (q) regulating the powers of Union Committees in regard to primary schools and dispensaries under sections 112 and 113;
- ⁵(ql) regulating the powers and duties of Union Committees in regard to sanitation, conservancy and drainage under sections 115 to 118C (both inclusive), and defining and prohibiting public nuisances within Unions;

¹ Clauses (m1) and (m2) were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (3), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

² These words in square brackets in clause (n) were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (9), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

³ Clause (ol) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (10), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁴ These words in square brackets were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (17), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁵ Clause (ql) was inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (13), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

(Part IV.—Control.—Secs. 139, 140.)

- (r) providing for the appointment and payment of auditors of the accounts of Boards and Committees;
 - (s) affording guidance to District Boards when suits or other proceedings are threatened or have been instituted by or against them in Civil Courts; and
 - (t) generally, determining the relations between District Boards, Local Boards and Union Committees, and for the guidance of Boards and Committees and Government officers in all matters connected with the carrying out of the provisions of this Act;
- and may from time to time repeal or alter such rules.

Rules made under this section shall be published in such manner as the Lieutenant-Governor¹ may direct, and shall thereupon have the force of law;

and no rules under clause (a) shall come into operation until three months after they have been published as aforesaid.

¹In making any rule under clause (g) of this section, the Lieutenant-Governor² may provide that a breach of the same shall be punished with fine which may extend to ten rupees.

By-laws.

Power of
District Board
and Local
Board to make
by-laws.

139. Every District Board or Local Board empowered in this behalf by the Lieutenant-Governor¹ may, '[subject to the control of the Lieutenant-Governor,²] make by-laws³ for carrying out all or any of the purposes of this Act.

By-laws made under this section shall have the force of law when '[confirmed by the Commissioner] and published in such manner and for such time as the Lieutenant-Governor¹ may direct.

Penalty for
infringement
of by-laws.

140. In making a by-law under the last preceding section a Board may provide that a breach of the same shall be punished with fine which may extend to fifty rupees, and in the case of a continuing breach with a further fine which may extend to five rupees for every day during which the breach is continued after the offender has been convicted of such breach.

¹ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, items 1 and 2, in Vol. I of this Code.

² This clause was added, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (33), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 8, and Sch. D, item 1, in Vol. I of this Code.

⁴ These words in square brackets in s. 139 were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 61 (s), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

⁵ For lists of by-laws made under s. 139 for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁶ These words in square brackets in s. 139 were substituted for the words "confirmed by the Lieutenant-Governor" for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908), s. 60 (b), in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 8, Sch. I.

of 1883.]

(Part IV.—Control.—Secs. 141-144.)

141. Prosecutions under this Act for breach of by-laws may be instituted by any Board, or by any person authorized by the Board in this behalf. Prosecutions.

10 of 1882. A Judge or Magistrate shall not be deemed to be, within the meaning of section 555 of the Code of 'Criminal Procedure,' a party to, or personally interested in, any case under this section merely because he is a member of the Board.

Miscellaneous Provisions.

142. No person shall be liable for the loss, waste or misapplication of any money or other property belonging to the District Board,¹ [Local Board] or Union Committee, unless such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of a Union Committee, Local Board or District Board; and a suit for compensation for the same may be instituted against him, in such Court as the Lieutenant-Governor² directs, by the District Board with the sanction of the Lieutenant Governor³ or by the Secretary of State for India in Council. Liability of members of Boards and Union Committees.

143. The Lieutenant-Governor,⁴ before making any rules under section 138, and a District Board or Local Board, before making any by-laws under section 139, shall publish in such manner as the Lieutenant-Governor⁵ deems sufficient for giving information to persons interested the proposed rules or by-laws, together with a notice specifying a date on or after which the same will be taken into consideration; and shall, before making such rules or by-laws, receive and consider any objection or suggestion which may be made by any person with respect to the same before the date so specified. Procedure for making rules and by-laws.

Every such rule or by-law shall be published in the Calcutta Gazette in English, and in such other language as the Lieutenant-Governor⁶ directs, and such publication shall be evidence that the rule or by-law has been made as required by this section.

144. If any member of a local authority, or any officer or servant maintained by or employed under a local authority, has, directly or indirectly, any share or interest in any work done by order of the local authority of which he is a member, or by which he is maintained, or under which he is employed, or in any contract with or under such local authority, he shall Penalty on member, officer or servant being interested in contracts made with a local authority.

¹ Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now be taken to be made to s. 556 of that Code—see s. 3 (1) thereof, in General Acts, 1898-08, Ed. 1909, p. 40.

² These words "Local Board" were inserted, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 5 of 1908) s. 62, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 3, Sch. I.

³ Now the Governor in Council of Fort William in Bengal—see the Bengal, Bihar and Orissa and Assam Laws Act, 1912 (7 of 1912), s. 3, and Sch. D, items 1 and 2, in Vol. I of this Code.

(Part IV.—Control.—Secs. 146, 146.)

be liable on conviction before a Criminal Court to a fine which may extend to five hundred rupees :

Provided that the penalty herein prescribed shall not be deemed to apply by reason only of a person—

- (a) having a share in any joint-stock company which shall contract with, or be employed by, or on behalf of, the local authority ; or
- (b) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local authority may be inserted ; or
- (c) holding a debenture or being otherwise concerned in any loan raised by, or on behalf of, the local authority.

Nevertheless it shall not be lawful for a person having any share or interest, such as is described in clauses (a) and (b), to act as a member of the local authority in any matter relating to a contract or agreement between the local authority and such company or the manager or publisher of such newspaper.

¹ Nothing in this section shall apply to the payment of fees to a legal practitioner for services rendered by him in his professional capacity.

Power to
make
compensation
out of the
Local Fund.

145. Every local authority may make compensation out of the District or Union Funds respectively to any person sustaining any damage by reason of the exercise of any of the powers conferred by this Act.

No action to
be brought
against the
members of
Boards and
Committees
until after
the member's
notice of
cause of
action.

146. No suit shall be brought against the members of any District Board, Local Board or Union Committee, or any of their officers, or any person acting under their direction, for anything done under this Act, until the expiration of one month next after notice in writing has been delivered or left at the office of such Board or Committee, and also (if the suit is intended to be brought against any officer of the said Board or Committee, or any person acting under their direction) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit;

and, unless such notice be proved, the Court shall find for the defendant.

Every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards.

If any such person to whom any such notice is given shall, before suit is brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover.

¹ This clause was added to s. 144, for Western Bengal, by the Bengal Local Self-Government (Amendment) Act, 1908 (Ben. Act 6 of 1908), s. 68, in Vol. III of this Code. That Act was extended to Eastern Bengal by the Bengal Laws Act, 1914 (Ben. Act 1 of 1914), s. 2, Sch. I.

of 1885.]

SELF-GOVERNMENT ACT OF 1885.

971

(The First and Second Schedules.)

THE FIRST SCHEDULE.

(See section 2.)

REPEAL OF ENACTMENT.

Number and year.	Subject.	Extent of repeal.
Bengal Act 9 of 1880. ¹	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of provincial public works.	Sections 110 to 181, both inclusive. Section 182, clauses (a), (b), (c), (e), (g) and h)

THE SECOND SCHEDULE.

(See section 2.)

AMENDMENT OF ENACTMENT.

Number and year	Subject.	Extent of amendment.
Bengal Act 9 of 1880. ¹	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of provincial public works.	<p>In section 4 the following definitions shall be substituted for the definition of "the Committee" :—</p> <p>"District Board" means the Board constituted under the provisions of the Bengal Local Self-Government Act of 1885,"</p> <p>"District Fund" means the Fund formed under section 52 of the Bengal Local Self-Government Act of 1885."</p> <p>In section 9, the words "and, together with other assets of such fund, shall be applied to the purposes mentioned in section 2 [109]" shall be omitted.</p> <p>The following section shall be substituted for section 38 :—</p> <p>"The road cess for each year shall be assessed and levied in each district as provided in section 6, and (subject to the maximum rate in that section mentioned) at such rate as may be determined for such year by the District Board."</p> <p>Rates at which road cess shall be levied how to be fixed.</p>

¹ Printed assn, page 529.

² The figures "109" were substituted for the figures "111" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

[Ben. Act 5 of 1885.]

(The Second and Third Schedules.)

THE SECOND SCHEDULE.

(See section 2.)

AMENDMENT OF ENACTMENT.

Number and year.	Subject.	Extent of amendment.
Bengal Act 9 of 1880. ¹	To amend and consolidate the law relating to rating for the construction, charges and maintenance of district communications and works of public utility and of Provincial Public works.	<p>In section 40, omit the words "as provided in section 155."</p> <p>In sections 82 and 83, the words "District Road Funds" and "District Road Fund" shall be substituted for the words "Committees" and "Committee" respectively.</p> <p>In section 98, the words "District Road Fund" shall be substituted for the words "District Road Committee."</p> <p>In section 108, the words "and of all sums whatsoever which may be at the disposal of the District Road Committee as hereinafter appointed" shall be omitted.</p> <p>The following new section shall be substituted for section 109 :—</p> <p>(a) [Printed <i>ante</i>, p. 580.]</p>

THE THIRD SCHEDULE.

(See sections 6 and 9.)²

Districts in every Subdivision of which a Local Board shall be established.

DISTRICT.	DISTRICT.
24-Parganas. Nadia. Murshidabad. Jessore. Khulna. Hooghly. Howrah. Bardwan.	Midnapore. Bankura. Birbhum. Dacca. Faridpur. Rajshahi. Pabna. [Patna].

¹ Printed *ante*, page 539.² Schedule III is referred to in sections 6, 9, 11, 14 and 15.

BENGAL ACT 1 OF 1886

[THE BENGAL VILLAGE CHAUKIDARI (AMENDMENT) ACT, 1886].

CONTENTS.

PREAMBLE.

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Commencement.
2. (*Repealed*).
3. New section substituted for section 6.
4. Amendment of section 8.
5. New section substituted for section 9.
6. New section to follow section 9.
7. Amendment of section 22.
8. (*Repealed*).
9. Amendment of section 41
10. New section substituted for section 43.
11. New section substituted for section 44.
12. Amendment of sections 45.
13. New sections to follow section 46.

BENGAL ACT 1 OF 1886

[THE BENGAL VILLAGE CHAUKIDARI (AMENDMENT) ACT, 1886]¹.

(2nd June, 1886.)

An Act to further amend the Village-chaukidari Act, 1870.²Ben. Act 6 of
1870.

Whereas it is expedient to further amend the Village-chaukidari Act, 1870³; It is enacted as follows:—

Preamble.

PRELIMINARY.

1. This Act shall be read with, and taken as part of, Bengal Act 6 of 1870⁴ as amended by Bengal Act 1 of 1871.

Extent.

And it shall come into force in all districts to which Bengal Act 6 of 1870⁵, as amended by Bengal Act 1 of 1871, has been extended.⁶

Commence-
ment.

2. (*New section substituted for section 3.*) *Rep. by the Repealing and Amending Act, 1897 (5 of 1897).*

3. For section 6 the following shall be substituted:—

New section
substituted
for section 6.

6. [Printed *ante*, p. 177.]

4. In section 8, for the words “fifteen days” shall be substituted the words “thirty days,” and for the words “two years” shall be substituted the words “three years.”

Amendment
of section 8.

5. For section 9 the following shall be substituted:—

New section
substituted
for section 9.

9. [Printed *ante*, p. 178.]

6. After section 9 the following shall be inserted:—

New section
to follow
section 9.

9A, 9B. [Printed *ante*, p. 178.]

7. In section 22, for the words “six per cent.” shall be substituted the words “ten per cent.”

Amendment
of section 22.

8. (*Amendment of section 39.*) *Rep. by the Repealing and Amending Act, 1897 (5 of 1897).*

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1886, Pt. IV, page 9; for Report of Select Committee, see *ibid*, page 13; and for Proceedings in Council, see *ibid* Supplement, pages 144, 188, 498, 616 and 786.

LOCAL EXTENT.—This Act is to be read with and taken as part of, the Village-chaukidari Act, 1870 (Ben. Act 6 of 1870)—see s. 1. Its local extent is therefore the same as that of the latter Act, as to which see footnote⁴ on p. 178, *ante*. S. 1 of the present Act further declares that the Act shall come into force in all districts to which Ben. Act 6 of 1870, as amended by Ben. Act 1 of 1871, has been extended.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² Printed *ante*, page 176.

³ Formal words which were repealed by the Repealing and Amending Act, 1908 (1 of 1908), are omitted.

976 THE BENGAL VILLAGE CHAUKIDARI (AMENDMENT) ACT, 1886.

[Ben. Act 1 of 1886.]

(Secs. 9-13.)

Amendment
of section 41

9. In section 41, after the words "such member shall himself report the same" and before the words "to such officer" shall be inserted the following :—
"or cause the same to be reported."

New section
substituted
for section 43

10. For section 43 the following shall be substituted :—

43. [Printed *ante*, p. 184.]

New section
substituted
for section 44
Amendment
of section 45.

11. For section 44 the following shall be substituted :—

44. [Printed *ante*, p. 185.]

12. In section 45 for the words "shall issue his warrant" shall be substituted the words "may issue his warrant," and at the end of the section the following shall be added :—
[Printed *ante*, p. 185.]

New sections
to follow
section 46.

13. After section 46 the following shall be inserted :—

46A. *Superseded by the Bengal Village-chaukidari (Amendment) Act, 1892 (Ben. Act 1 of 1892), s. 17, in Vol. III of this Code.*

46B. [Printed *ante*, p. 186.]

BENGAL ACT 2 OF 1886

[THE CALCUTTA AND SUBURBAN POLICE (AMENDMENT)
ACT, 1886].¹

(9th June, 1886).

Ben. Act 4 of
1866.**An Act of amend Act 2 (B. C.) of 1866,² and the Calcutta Police
Act, 1866.³**Ben. Act 4 of
1866.

Whereas it is expedient to amend Bengal Act 2 of 1866⁴ Preamble.
and the Calcutta Police Act, 1866⁵; It is enacted as follows:—

1. (*Commencement*). *Rep. by the Repealing and Amend-
ing Act, 1903 (1 of 1903), now known as the Amending Act,
1903—vide Act 10 of 1914, Sch. II.*

Ben. Act 4 of
1866.

2. For section 41 of Bengal Act 2 of 1866,⁶ and for section
68 of the Calcutta Police Act, 1866⁷, the following shall be sub-
stituted:—

(Printed *ante*, pp. 72, 114.)

3. After section 68 of the said Calcutta Police Act⁸ the
following shall be added:—

68A. (Printed *ante*, p. 114.)

4. (*Amendment of section 72 of Ben. Act 4 of 1866*). *Rep.
by the Calcutta and Suburban Police (Amendment) Act, 1910
(Ben. Act 3 of 1910).*

New section
substituted
for section 41,
Ben. Act 2 of
1866, and sec-
tion 68, Ben.
Act 4 of 1866.

New section
to amend sec-
tion 68 of Ben.
Act 4 of 1866.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1886, Pt. IV, page 11; and for Proceedings in Council, see *ibid*, 1886, pages 144, 189, 489, 535 and 630.

LOCAL EXTENT.—Section 2 of this Act extends to the town and suburbs of Calcutta, and s. 3 extends only to the town of Calcutta.

² The Calcutta Suburban Police Act, 1866. It is printed *ante*, p. 68.

³ Printed *ante*, page 89

BENGAL ACT 3 OF 1886

[THE BENGAL MUNICIPAL (AMENDMENT) ACT, 1886].¹

(6th October, 1886.)

An Act to amend * * * Act 3 (B. G.) of 1884.

Whereas it is expedient to amend * * *
Bengal Act 3 of 1884; It is enacted as follows:—

1. (*Commencement of Act*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. For * * * section 251 of Bengal Act 3 of 1884 the following shall be substituted:—
251. (Printed *ante*, p. 813.)

New section substituted for section 251 of Ben. Act 3 of 1884.

3. After * * * section 251 of Bengal Act 3 of 1884 the following sections shall be inserted:—
251A to 251 D. (Printed *ante*, pp. 814.)

New sections to follow section 251 of Ben. Act 3 of 1884.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see Vol. I of this Code That Act is now known as the Amending Act, 1903—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—Bill (without Statement of Objects and Reasons) published in Calcutta Gazette, 1886, Pt. IV, p. 129; for Proceedings in Council, see *ibid*, Supplement, pages 1806 and 1807.

LOCAL EXTENT.—The local extent of Ben. Act 3 of 1886 is the same as that of Ben. Act 3 of 1884, as to which see foot-notes on p. 709, *ante*.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1910 (1 of 1910), s. 4 (2), printed in Vol. I of this Code.

² Ben. Act 3 of 1886, so far as it amended Ben. Act 4 of 1876 (the Calcutta Municipal Consolidation Act, 1876), having been repealed by Ben. Act 2 of 1888 (the Calcutta Municipal Consolidation Act, 1888), the references to the said Ben. Act 4 of 1876 have here been omitted.

BENGAL ACT 1 OF 1887

(THE CALCUTTA SURVEY ACT, 1887).

CONTENTS.

PREAMBLE.

Section.

1. Short title.
(Commencement.) *Repealed.*
Local extent.
2. Interpretation-clause.
3. Local Government may order survey and appoint Superintendent.
4. Superintendent may enter upon land.
5. Superintendent to give notice before entering on land.
6. Persons summoned failing to appear are bound by the survey.
7. In case of dispute, Assistant Superintendent to hold an inquiry.
8. Procedure in case of dispute as to boundaries.
9. Power of Assistant Superintendent to enforce attendance of witnesses.
10. After inquiry, Assistant Superintendent to record his decision.
11. An appeal shall lie to the Board of Revenue.
12. Power to refer to arbitration.
13. On failure of an arbitrator to act, another may be appointed.
14. Appointment of an umpire.
15. Power to enforce attendance of witnesses in an arbitration.
16. On failure to make an award, Assistant Superintendent may supersede the arbitration.
17. The award.
18. Superintendent may erect boundary-marks.
19. Maintenance of temporary boundary-marks.
20. All documents connected with the survey to be sent to the Municipal office.
21. Approval of the survey by the Local Government to be notified.
22. No suit shall lie unless brought within one year.
23. Local Government may make rules under the Act.
24. How notices may be served.
25. Penalty for failure to comply with requisition in notice.
26. Proceedings not to be affected by informality.
27. Power of Local Government to extend this Act to the suburbs.

BENGAL ACT 1 OF 1887.

(THE CALCUTTA SURVEY ACT, 1887).¹

(2nd February, 1887.)

An Act to provide for a Survey of the Town of Calcutta.

Whereas it is expedient to provide for the survey and demarcation of land in the town of Calcutta; It is hereby enacted as follows:—

1. This Act shall be called the Calcutta Survey Act, 1887; (Commencement). *Rep. by the Repealing and Amending Act 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

It extends to the town of Calcutta within the local limits of the ordinary original civil jurisdiction of Her Majesty's High Court of Judicature at Fort William in Bengal.

2. In this Act, unless there be something repugnant in the subject or context,—

"survey" includes identification of boundaries and all other operations antecedent to, or connected with, survey;

"Superintendent" means the Superintendent of Survey under this Act;

"land" includes anything attached to the earth or permanently fastened to anything attached to the earth;

"premises" means any land described as such in the registers of the Corporation of the town of Calcutta² or as a holding in the registers of the Calcutta Collectorate³;

"owner" includes—

- (a) the person having permanent interest in any land or premises;
- (b) an agent of, or manager on behalf of, such person;
- (c) a trustee of such person;
- (d) a body corporate in which land is vested by operation of Statute.

3. The Local Government may, whenever it thinks fit, order, by a notification in the Calcutta Gazette, that a survey shall be made of the lands situated in the town of Calcutta,

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1886, Pt. IV, p. 141; and for Proceedings in Council, see *ibid*, 1886, Supplement, pp. 2481, 2681; *ibid*, 1887, Supplement, pp. 91 and 98.

LOCAL EXTENT.—This Act, as originally passed, applied only to Calcutta (see s. 1), with power to extend it to the suburbs of Calcutta (see s. 27); but it is declared by the Bengal Municipal Act, 1884 (Ben. Act 3 of 1884), s. 228A (printed *ante*, p. 768), that "The Commissioners at a meeting may order that a survey shall be made of the lands situated in the municipality, and thereupon all the provisions of the Calcutta Survey Act, 1887, shall, so far as may be practicable, apply and be extended to such municipality." The present Act is therefore applicable to all provincial Municipalities in Bengal.

OTHER ENACTMENTS.—As to surveys in Bengal, see also the Bengal Survey Act, 1875 (Ben. Act 6 of 1875), *ante*, p. 275.

² As to the application of this Act in Provincial Municipalities, see the "Local Extent" Footnote above.

Preamble.

Short title.

Local extent.

Interpreta-
tion clause.

"Survey."

"Superin-
tendent."

"Land."

"Premises."

"Owner."

Local Govern-
ment may
order survey
and appoint
Superintend-
ent.

(Secs. 4-8.)

and for such purpose may appoint a Superintendent of Survey, and one or more Assistant Superintendents of Survey.

The Assistant Superintendents of Survey shall exercise such powers as may be delegated to them by the Superintendent.

Superintendent may enter upon land.

4. The Superintendent of Survey shall, for the purposes of this Act, have power, either by himself or by an Assistant Superintendent of Survey or by other officers employed in the survey, to enter, between the hours of sunrise and sunset, upon any land or premises within the local limits aforesaid, without being liable to any legal proceedings whatsoever on account of such entry, or of anything done on such land or premises in pursuance of this Act:

Provided that no such entry shall be made upon lands or premises which may be occupied at the time, unless with the consent of the occupier thereof, or without previously giving the said occupier twenty-four hours' notice of the intention to do so.

Superintendent to give notice before entering on land.

5. Before entering on any land or premises for the purposes of survey, the Superintendent may cause a notice in writing under his hand to be served on the owner of the land or premises about to be surveyed, and on the owners of contiguous lands or premises, calling upon them to attend either personally or by agent on such land or premises, before him or before such officer as may be authorized by him in that behalf, within a specified time (which shall not be less than three days after the service of such notice) for the purpose of pointing out boundaries, and of affording such information as may be needed for the purposes of this Act; and every person on whom such notice may be served shall be legally bound to attend as required by the notice, and to give any information which may be required so far as he may be able to give it.

Persons summoned failing to appear are bound by the survey.

6. If, after due service of notice under the last preceding section, any person fails to appear without showing sufficient cause to the satisfaction of the Superintendent, the Superintendent, or such officer as may be authorized by him, may proceed with the survey; and the person who is so absent shall be bound by the results of the survey in the same manner and to the same extent as if the survey were made in his presence.

In case of dispute, Assistant Superintendent to hold an inquiry.

7. If in the course of survey it shall come to the notice of the Superintendent that a dispute exists as to any boundaries which should be surveyed, the Superintendent shall cause an inquiry to be held by an Assistant Superintendent, as hereinafter provided, for the purpose of determining such boundaries.

Procedure in case of dispute as to boundaries.

8. When any dispute exists as to any boundaries, the Assistant Superintendent who may be authorized by the Superintendent in this behalf shall cause a notice in writing under his hand to be served on the parties concerned requiring them to appear before him, in person or by an authorized

(Secs. 9-13.)

agent, on a specified day, and to produce evidence of possession of the land in dispute.

The Assistant Superintendent shall, on the specified day, or on such other day to which the hearing may be adjourned, hear the parties, receive the evidence produced by them respectively, consider the effect of such evidence, take such further evidence as he may think necessary, and without reference to the merits of the claim of any of such parties to a right to possess the land in dispute, decide which of the parties is in possession of the said land at the time of the survey.

9. For the purposes of the inquiry aforesaid the Assistant Superintendent shall have power to summon and enforce the attendance of witnesses and compel the production of documents by the same means and in the same manner as if provided in the case of a Court under the Code of Civil Procedure.¹

Power of Assistant Superintendent to enforce attendance of witnesses.

10. After the inquiry has been completed, the Assistant Superintendent shall pass an order in writing defining clearly the subject of dispute, and shall record his decision, and the reasons for such decision.

After inquiry, Assistant Superintendent to record his decision.

11. An appeal shall lie from any order passed by an Assistant Superintendent under the last preceding section to the Board of Revenue,² or to such other authority as the Local Government may, by notification in the Calcutta Gazette, appoint in this behalf, if preferred within thirty days from the date of such order.

An appeal shall lie to the Board of Revenue.

12. In every case of disputed boundaries the Assistant Superintendent authorized to hold the inquiry may, on the written application of the parties, refer the dispute to one or more arbitrators nominated by the parties respectively, and shall fix such time, and allow such extension of time, as may seem reasonable for the delivery of the award:

Power to refer to arbitration

Provided that, if it appears to the Assistant Superintendent that the Local Government or the Corporation of Calcutta³ is interested in any such dispute, he shall appoint, in the former case, the Collector or Deputy Collector of Calcutta⁴, and, in the latter case, the Chairman, Vice-Chairman or Surveyor of the Corporation⁵, one of the arbitrators, unless the parties agree to such officer being appointed sole arbitrator.

13. Where an arbitrator nominated by a party refuses to act or becomes incapable of acting by reason of death or other sufficient cause, the party by whom he was nominated may, by a written application to the Assistant Superintendent,

On failure of an arbitrator to act, another may be appointed

¹ Act 14 of 1882 has been repealed and re-enacted by the Code of Civil Procedure, 1908 (3 of 1908), and this reference should now be taken to the latter Code—see s. 166 thereof, in General Acts, 1904-09, Ed. 1909, p. 184.

² As to the present constitution and powers of the Board of Revenue, see now the Bengal Board of Revenue Act, 1919 (Beng. Act 2 of 1919).

³ As the application of this Act in Provincial Municipalities, see footnote¹ on page 983, ante.

(Secs. 14-20.)

nominate another arbitrator; and, on being satisfied that the application has been made on sufficient grounds, he shall confirm such nomination; and the arbitrator so appointed may thereupon proceed with the inquiry.

Appointment
of an umpire.

14. If the arbitrators differ, the award shall be in accordance with the opinion of the majority, if they are equally divided in opinion, it shall be competent to them or to the Assistant Superintendent, on the written application of the arbitrators or of the parties to the arbitration, to appoint an umpire, and the decision of the umpire determining the boundaries in dispute shall have the force of an award of the arbitrators.

Power to
enforce
attendance of
witnesses in
an arbitration

15. The Assistant Superintendent shall, on the application of the arbitrators or umpire, issue the same processes to parties and witnesses as he may issue in inquiries held by himself.

In failure
to make an
award,
Assistant
Superintendent
may supersede the
arbitration.
The award.

16. If the arbitrators or the umpire appointed under the preceding sections fail to deliver the award within the time allowed by the Assistant Superintendent, he may make an order superseding the arbitration, and in such case he shall proceed with the inquiry.

17. The award shall be made in writing, and shall be signed by the persons making it, and shall be filed in the office of the Superintendent, with any evidence which may have been taken by the arbitrators or the umpire.

The Superintendent shall lay down the boundaries in accordance with the award.

Superintendent
may erect
boundary-
marks.

18. The Superintendent may at any time cause to be erected, on any land which is to be, or has been, surveyed under this Act, temporary or permanent boundary-marks of such materials and in such number and manner as he may determine to be sufficient.

Maintenance
of temporary
boundary-
marks.

19. When any temporary boundary-mark has been erected under the last preceding section, the Superintendent may cause a notice in writing under his hand to be served on the owner or person in occupation of the land or premises whereon, or adjoining which, such boundary-mark is situate, requiring him to maintain and keep in repair such boundary-mark till the survey has been completed.

All documents
connected
with the
survey to be
sent to the
Municipal
Office.

20. After the survey of any part of the town has been completed, the Superintendent shall deposit all maps, field-books, proceedings, awards and all other documents connected with the survey of such part in the Municipal office of the Corporation of Calcutta.¹

Any person interested in the survey may, at any time within two months from the date of such deposit, which date shall be notified in the Calcutta Gazette, inspect such documents free of charge.

¹ As to the application of this Act in Provincial Municipalities, see footnote 1 on page 988 ante.

of 1887.]

(Secs. 21-26.)

And, if during such period any objection to the survey be lodged with the Superintendent, such objection shall be decided by the Superintendent, or by such officer as the Local Government may appoint in this behalf.

21. After all objections lodged under the last preceding section have been decided, the Local Government shall, if it approves the survey, signify such approval by notification¹ in the Calcutta Gazette.

Approval of the survey by the Local Government to be notified

22. No suit shall lie to set aside any demarcation of boundaries made under the provisions of this Act unless brought within one year from the date of the notification mentioned in the last preceding section.

No suit shall lie unless brought within one year.

23. The Local Government may lay down rules not being inconsistent with this Act to provide for the preparation of maps and for the collection and record of any information in respect of any land to be surveyed under this Act, and generally for the proper performance of all things to be done and for the regulation of all proceedings to be taken under this Act.

Local Government may make rules under the Act.

24. Every notice in and by this Act required to be served on any person may be served—

How notices may be served.

- (a) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides or holds his office, or carries on his business, or by delivering the same to an agent or servant of such person, or to a male adult member of his family and by fixing a copy on some conspicuous part of the land or premises to which it relates; or
- (b) by sending a registered cover through the post office containing such notice directed to the said person at the place where he resides:

Provided that, after the publication of the notification referred to in section 21, no survey made under this Act shall be vitiated for any defect in the service of notice.

25. Whoever fails to comply with a requisition contained in any notice duly served under section 5 or section 8 of this Act shall be liable to a fine not exceeding one hundred rupees.

Penalty for failure to comply with requisition in notice.

26. No proceedings under this Act shall be affected by reason of any informality, provided the directions of this Act be in substance and effect complied with; and no proceedings, under this Act shall be affected by reason of the omission to serve any notice on an owner whose name is not registered as

Proceedings not to be affected by informality.

¹ For a list of notifications issued under s. 21, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Sec. 27.)

owner in the Calcutta Collectorate¹ or in the registers of the Corporation of the town of Calcutta.¹

27. The Local Government may extend² the whole or any of the provisions of this Act to the whole or any part of the suburbs of Calcutta which may hereafter be amalgamated for municipal purposes with the town of Calcutta.³

Power of
Local Gov-
ernment to
extend this
Act to the
Suburbs.

¹ As to the application of this Act in Provincial Municipalities, see footnote ¹ on page 988 *ante*.

² For an order made under section 27, for Bengal as constituted on the 31st March, 1912, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ As to what areas are now included in "Calcutta" for municipal purposes, see the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), s. 8 (7), in Vol. III of this Code.

BENGAL ACT 2 OF 1887

[THE BENGAL VACCINATION (AMENDMENT) ACT, 1887].¹

(9th March, 1887.)

An Act to amend Bengal Act 5 of 1880.²

Whereas it is expedient to amend the Bengal Vaccination Act, 1880³; It is enacted as follows:—

Preamble.

PRELIMINARY.

1. This Act shall be read with, and taken as part of the Bengal Vaccination Act, 1880⁴.

Construction of Act.

(Commencement). *Rep. by the Repealing and Amending Act, 1897 (5 of 1897).*

2. In this Act, unless there be something repugnant in the subject or context,—

Interpretation.

“vessel” includes anything made for the conveyance by water of human beings or of property.

“Vessel.”

VACCINATION OF CHILDREN.

3. In section 3, immediately before the last paragraph, the following shall be inserted:—

Amendment of section 3.

[Printed *ante*, p. 467.]

⁵[The Schedule hereto annexed shall be annexed as the First Schedule to the Bengal Vaccination Act, 1880.]

4. For the first paragraph of section 4 the following shall be substituted:—

Amendment of section 4.

[Printed *ante*, p. 467.]

VACCINATION OF PERSONS ON BOARD VESSELS.

5. To section 13 the following shall be added:—

Amendment of section 13.

[Printed *ante*, p. 467.]

¹SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1886, Part IV, page 11; and for Proceedings in Council, see *ibid*, Supplement, pages 141, 187, 498, 680 and 740.

LOCAL EXTENT.—Since this Act is (see s. 1) to be read with and taken as part of the Bengal Vaccination Act, 1880 (Ben. Act 5 of 1880), it has the same local extent as the latter Act, as to which see footnote ⁴ on page 468, *ante*.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), section 4 (2), printed in Vol. I of this Code.

²Printed *ante*, page 463.

³This paragraph was added by the Repealing and Amending Act, 1897 (5 of 1897), Sch. II—see Vol. I of this Code.

990 THE BENGAL VACCINATION (AMENDMENT) ACT, 1887.

[Ben. Act 2 of 1887.]

(Secs. 6-8.—*The First Schedule.*)

New section
to follow
section 13.

6. After section 13 the following section shall be inserted:—

13A. [Printed *ante*, p. 478.]

MISCELLANEOUS.

Amendment of
section 28.

7. To section 28, after clause (c), the following clause shall be added:—

[Printed *ante*, p. 479.]

New sections
to follow
section 28.

8. After section 29 the following sections shall be inserted:—

29A, 29B. [Printed *ante*, p. 479.]

THE FIRST SCHEDULE.

[Printed *ante*, p. 481.]

BENGAL ACT 3 OF 1888

(THE HOWRAH BRIDGE ACT AMENDMENT ACT, 1888).¹

(3rd October, 1888.)

Ben. Act 9 of
1871.**An Act to amend the Howrah Bridge Act, 9 of 1871.²**Ben. Act 9 of
1871.

Whereas it is expedient to empower the Lieutenant-Governor of Bengal to remit the payment of the tolls, fees and charges levied under the provisions of the Howrah Bridge Act of 1871² upon all passengers, animals, vehicles and goods using or conveyed upon the said bridge, and to re-impose the payment of the fees on any goods or any passengers which may have been exempted from such payment under section 4 of the said Act; It is hereby enacted as follows:—

1. This Act may be called the Howrah Bridge Act Amendment Act, 1888. Preamble.

2. It shall be read with, and taken as part of, Bengal Act 9 of 1871.² Short title.

(Commencement). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.* Construction of Act.

3. For the proviso to section 3 the following proviso shall be substituted:— Amendment of section 3 of Ben. Act 9 of 1871.

[Printed *ante*, p. 218.]

4. After the proviso to section 4 the following proviso shall be added:— Amendment of section 4 of Ben. Act 9 of 1871.

[Printed *ante*, p. 218.]

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1888, Pt. IV, p. 88; for Report of Select Committee, see *ibid*; and for proceedings in Council, see *ibid* Supplement, pp. 1015, 1066 and 1182.

LOCAL EXTENT.—The local extent of this Act is the same as that of Ben. Act 9 of 1871 as to which see foot-note¹ on p. 217 *ante*.

² Printed *ante*, page 217

BENGAL ACT 2 OF 1889

(THE PRIVATE FISHERIES PROTECTION ACT, 1889).¹

(26th June, 1889.)

An Act for the protection of the right of fishing in private waters.

Whereas it is expedient to provide for the protection of private rights of fishery; It is hereby enacted as follows:—

1. This Act may be called the Private Fisheries Protection Act, 1889.

2. In this Act—

“fish” includes shell-fish and turtles;

“fixed engine” means any net, cage, trap or other contrivance for taking fish fixed in the soil or made stationary in any other way;

“private waters” means waters—

- (a) which are the exclusive property of any person; or
- (b) in which any person has an exclusive right of fishery, and in which fish are not confined but have means of ingress or egress.

3. Any person who—

- (a) fishes in any private waters, not having a right to fish therein,
- (b) erects, places, maintains or uses any fixed engine in private waters, or puts, or knowingly permits to be put, therein any matter for the purpose of catching or destroying fish without the permission of the person to whom the right of fishery therein belongs;

shall be guilty of an offence, and shall be punished for a first offence with a fine not exceeding fifty rupees;

and for a subsequent offence with imprisonment which may be simple or rigorous, for a term not exceeding one month, or with a fine not exceeding two hundred rupees, or both:

¹LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1889, Pt. IV, p. 6; for Report of Select Committee, see *ibid.*, p. 82; and for Proceedings in Council, see *ibid.*, Supplement, pp. 668, 714, 947 and 960.

LOCAL EXTENT.—Since this Act contains no local extent clause, it must be taken to extend to the whole of the former Province of Bengal.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulations, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

OTHER ENACTMENTS.—The Indian Fisheries Act, 1897 (4 of 1897), is to be read as supplemental to this Act—see s. 2 of the former Act, in General Acts, 1897-97, Ed. 1909, p. 545.

As to fishing in forest, see the Indian Forest Act, 1878 (7 of 1878), ss. 25 (i), 81 (j), in General Acts, 1868-78, Ed. 1909, pp. 585, 589.

As to fishing-stakes in fairways leading to ports, see the Obstructions in Fairways Act, 1881 (16 of 1881), in General Acts, 1878-86, Ed. 1909, p. 121.

For power to make rules prohibiting or regulating fishing in public parts, see the Bengal Public Parks Act, 1904 (Ben. Act 2 of 1904), s. 4 (f), in Vol. III of this Code.

[Sen. Act 2 of 1889.]

(Secs. 4-6.)

Provided that nothing herein contained shall apply to acts done by any person in the exercise of a *bona fide* claim of right, or shall prevent any person from angling with a rod and line or with a line only in any portion of a navigable river.

Forfeiture of
fixed engine.

4. (1) Any fixed engine erected, placed, maintained or used in contravention of the last preceding section, and any fish taken by means of such engine, or otherwise in contravention of this Act, shall be forfeited.

Removal of
fixed engine.

(2) And such fixed engine may be removed or taken possession of by the Magistrate of the district, or such person as he empowers in this behalf.

Entry upon
the land of
another or
upon private
waters with
intent to com-
mit an
offence.

5. Whoever enters upon land in the possession of another or upon private waters, with intent to commit any of the offences specified in section 3, shall be punished with a fine not exceeding fifty rupees.

Offences un-
der this Act
considered
"cognizable
offences."

6. Offences committed under this Act shall be considered to be "cognizable offences" as defined in the Code of Criminal Procedure.¹

10 of 1882.

¹ Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (6 of 1898), and this reference should now be taken to be made to the latter Act—*see* s. 3 (1) thereof, in General Acts, 1898-1903, Ed. 1903, p. 40.

BENGAL ACT 4 OF 1889

(THE CALCUTTA BURIAL BOARDS ACT, 1889).

CONTENTS.

PREAMBLE.

SECTION.

1. Commencement of Act.
2. Definition of "public Muhammadan burial-ground."
3. Local Government may appoint a Burial Board.
4. Constitution of Board.
5. Chairman of Calcutta Corporation to be *ex officio* Chairman of Board.
6. Superintendence, management or control of public Muhammadan burial-grounds enumerated in the First Schedule to be exercised by Board.
7. Local Government may place other public Muhammadan burial-grounds under superintendence, management or control of Board.
8. Provision for making over private burial grounds to charge of Board.
9. Power in Board to create new burial-grounds or extend those already in existence by purchase of land.
10. Power to withdraw burial-grounds from superintendence, management or control of Board.
11. Board to receive and account for fees and grants.
12. Board may appoint subordinate establishment.
13. Power to make rules.
14. Appointment of Burial Board for any community.
15. Removal of nominated members of Boards appointed under section 14.
16. Filling of casual vacancies.
17. Term of office of nominated members.
18. Transfer of Burial Grounds.
19. Application of sections 4 (2) and 8 to 13 to Boards appointed under section 14.

THE FIRST SCHEDULE.

THE SECOND SCHEDULE. (*Repealed.*)

BENGAL ACT 4 OF 1889

(THE CALCUTTA BURIAL BOARDS ACT, 1889).¹

(11th September, 1889.)

An Act to provide for the appointment of a Muhammadan Burial Board in Calcutta, and to make better provision for the interment of persons other than Christians or Muhammadans.

Whereas it is expedient to make better provision for the superintendence, management or control of the Muhammadan burial-grounds, and for the interment of persons other than Christians or Muhammadans, in Calcutta as defined in the Calcutta Municipal Consolidation Act of 1888²;

Preamble.

Act 2 of

It is hereby enacted as follows:

1. (*Commencement of Act*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act of 1914, Sch. II.*

2. In this Act "public Muhammadan burial-ground" includes those Muhammadan burial-grounds enumerated in the First Schedule, and any others in which Muhammadans generally of any particular sect are in the habit of burying their dead.

Definition of "public Muhammadan burial-ground."

3. The Local Government may, by a notification³ published in the Calcutta Gazette, appoint a Muhammadan Burial Board for Calcutta.

Local Government may appoint a Burial Board. Constitution of Board.

4. (1) The Board shall be constituted as follows:—
the Chairman for the time being of the Corporation of Calcutta;
the Health Officer for the time being of Calcutta;
an officer of the Public Works Department appointed by the Local Government;
and not less than six, or more than nine, other members, who shall be Muhammadans appointed by the Local Government,

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1908 (1 of 1908), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1908—*vide* Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1888, Pt. IV, p. 29; for Report of Select Committee, see *ibid.*, p. 85; and for Proceedings in Council, see *ibid.* Supplement, pp. 604, 718, 955, 1820 and 1869.

LOCAL EXTENT.—This Act extends to "Calcutta" as defined in the Calcutta Municipal Act 1889 (Ben. Act 3 of 1889), *i.e.*, the town and suburbs of Calcutta (see the preamble), and may be applied to public Muhammadan burial-grounds in the "vicinity" of Calcutta (see ss. 7 to 9), and to certain burial-grounds in unspecified places (see s. 14).

BURIAL OF CHRISTIANS.—As to the burial of Christians, see the Calcutta Burial Board's Act 1881 (Ben. Act 5 of 1881), *ante*, p. 627.

² Ben. Act 3 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 2 of 1899), and this reference should now be construed as a reference to clause (?) of section of the latter Act (in Vol. III of this Code)—see the Bengal General Clauses Act, 1899 (Ben. Act of 1899), s. 10, in Vol. III of this Code.

³ For a notification issued under section 3, see the Bengal Local Statutory Rules and Orders, 1921 Vol. I, Pt. VI.

(Secs. 5-11.)

(2) The Local Government may, from time to time relieve any member of the Board appointed by it of his functions as such member.

5. The Chairman of the Corporation of Calcutta shall *ex officio* be Chairman of the Board.

Chairman of Calcutta Corporation to be *ex officio* Chairman of Board.

Superintendence, management or control of public Muhammadan burial-grounds enumerated in the First Schedule to be exercised by Board.

6. The superintendence, management or control of the public Muhammadan burial-grounds enumerated in the First Schedule shall, subject to the provisions of this Act, be exercised by the Board:

Provided that the Muhammadan Burial Board shall not exercise control over such portion of any public Muhammadan burial-ground as the Local Government may declare to have been hitherto set apart for the burial of persons other than Muhammadans.

Local Government may place other public Muhammadan burial-grounds under superintendence, management or control of Board.

7. The Local Government may, by an order published in the Calcutta Gazette, from time to time place any other public Muhammadan burial-ground in Calcutta or its vicinity under the superintendence, management or control of the Board.

Provision for making over private burial-grounds to charge of Board.

8. (1) The superintendence, management or control of any Muhammadan burial-ground situate in, or in the vicinity of, Calcutta may, with the sanction of the Local Government, be transferred by the owner or custodian thereof to the Board upon such terms as may be arranged between the Board and such owner or custodian.

(2) And such burial-ground shall thereupon be managed in all respects as a public Muhammadan burial-ground subject to the provisions of this Act.

Power in Board to create new burial-grounds or extend those already in existence by purchase of land.

9. The Board may, with the sanction of the Local Government, purchase any land in, or in the vicinity of, Calcutta, whether previously used as a burial-ground or not, with the object of extending any public burial-ground under its charge or of forming a new public burial-ground.

Power to withdraw burial-grounds from superintendence, management or control of Board.

10. The Local Government may, in its discretion at any time, withdraw any burial-ground from the superintendence, management or control of the Board.

Board to receive and account for fees and grants.

11. The Board shall receive all fees and other monies paid or given in respect of the use of such burial-grounds, the digging of graves and the erection of monuments therein and such grants as the Local Government may, from time to time,

of 1889.]

(Secs. 12-14.)

place at their disposal; and shall pay thereout all charges and expenses incurred by them in the management and superintendence of the same, and shall submit accounts of such receipts and expenditure once in every year to the Local Government in such form and manner as the Local Government may direct.

12. The Board may, from time to time, appoint all such overseers, clerks, subordinate officers and servants as they shall think necessary and proper to assist in carrying out the purposes of this Act; and may, from time to time, remove any of such persons and appoint others in their place.

Board may
appoint
subordinate
establishment.

13. (1) The Board may, with the sanction of the Local Government, from time to time make such rules¹ consistent with the purposes of this Act, as they think necessary for any of the following purposes; that is to say—

Power to
make rules.

- (a) for regulating the times when the Board shall meet, and the procedure to be observed at their meetings;
- (b) for the preservation, repair, and when necessary the removal, of existing monuments, and for regulating the dimensions of new monuments in any burial-ground under their charge;
- (c) for regulating the scale and mode of payment of fees, charges and other dues in respect of interments in any burial-ground, and for the expenditure of the same;
- (d) for directing the manner in which, and the persons by whom, all works within any such burial ground shall be executed; and
- (e) for otherwise carrying out the purposes of this Act.

(2) And may, from time to time, with the sanction aforesaid, vary, alter or revoke any such rules so made.

(3) All rules so made, and variations, alterations or revocations of rules, shall be published in the Calcutta Gazette.

14. (1) The Local Government may, by notification in the Calcutta Gazette, appoint a Burial Board for Calcutta, for any community other than the Christian and Muhammadan communities.

Appointment
of Burial
Board for any
community.

(2) Every such Board shall consist of—

- (a) the Chairman of the Corporation of Calcutta,
- (b) the Health Officer of the Corporation of Calcutta,
- (c) an officer of the Public Works Department to be nominated from time to time by the Local Government, and
- (d) not less than three nor more than six members representing the community concerned, to be nominated from time to time by the Local Government.

¹ For rules made under section 13, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² These sections 14 to 19 were substituted for the original section 14 by the Calcutta Burial Boards (Amendment) Act, 1918 (Ben. Act I of 1918), s. 2, in Vol. III of this Code.

(Secs. 15-19.)

(3) The Chairman of the Corporation of Calcutta shall be the Chairman of every such Board.

Removal of
nominated
members of
Boards ap-
pointed under
section 14.

¹⁵ The Local Government may, by notification in the Calcutta Gazette, declare that any nominated member of any Burial Board appointed under section 14 shall cease to be a member if he has, without the leave of the Chairman of the Board, been absent from, or is unable to attend, the meetings of the Board for any period exceeding six consecutive months.

Filling of
casual vacan-
cies.

¹⁶ If any nominated member of any such Board be permitted by the Chairman of the Board to absent himself from meetings of the Board for any period exceeding three months, or dies, or resigns his membership, or ceases to be a member in pursuance of a notification published under section 15, the vacancy shall be filled by a fresh nomination under section 14.

Term of
office of
nominated
members.

¹⁷ (1) The term of office of the first members nominated to any such Board shall commence on such day as may be appointed by the Local Government.

(2) Subject to the provisions of section 4, sub-section (2), and section 15, the term of office of members nominated to any such Board shall be as follows:—

- (a) a member nominated in pursuance of section 16 in the place of a member who has been permitted to absent himself from meetings of the Board—the period of the absence of the latter member; and
- (b) other members—five years.

(3) Any nominated member shall be eligible for re-nomination at the end of his term of office.

Transfer of
burial-
grounds

¹⁸ The Local Government may place under the superintendence, management or control of the Burial Board appointed for any community under section 14—

- (a) any portion of a public Muhammadan burial-ground which is excluded from the control of the Muhammadan Burial Board by the proviso to section 6, and which is used for the interment of persons belonging to such community, and
- (b) any other public burial-ground, or portion thereof, which is used, or is intended to be used, for the interment of persons belonging to such community.

Application of
sections 4 (3),
and 8 to 18
to Boards
appointed
under section
14.

¹⁹ Section 4, sub-section (2), and sections 8 to 13 shall apply, *mutatis mutandis*, to all Burial Boards appointed under section 14 and to burial-grounds under the superintendence, management or control of such Boards as well as to the Muhammadan Burial Board and Muhammadan burial-grounds.

¹ Sections 15 to 19 are new—see foot-note * on p. 999 ante.

of 1889.]

(The First and Second Schedules.)

THE FIRST SCHEDULE.

*(See section 6.)*¹SCHEDULE OF PUBLIC MUHAMMADAN BURIAL-GROUNDS PLACED
UNDER SUPERINTENDENCE, MANAGEMENT, OR CONTROL OF
BOARD.

- (1) Chopdar Bagan burial-ground, No. 54, Upper Circular Road, and Nos. 26 and 27 Manicktollah. Area of public portion, 3 *bighas* 12 *cottahs*, 3 *chitacks*, more or less.
- (2) Meah Bagan burial-ground. Nos. 52 and 53, Manicktollah. Area of public portion, 3 *bighas*, 1 *cottah*, 7 *chitacks*, more or less.
- (3) Khodadad's burial-ground, No. 15, Moonsheepara Lane. Area, 4 *bighas*, 18 *cottahs*, 7 *chitacks*, more or less.
- (4) Rahim-ud-deen Moonshee's burial-ground, No. 20, Canal Road, West. Area, 5 *bighas*, 16 *cottahs*, 7 *chitacks*, more or less.
- (5) Gobra *Gorastan*, No. 1, Gobra Road. Area, 6 *bighas*, more or less.
- (6) Talbagan burial-ground, No. 6, Tiljullah 1st Lane. Area, 10 *bighas*, 11 *cottahs*, more or less.
- (7) Talbagan *Khoyrattee Gorastan*, No. 7, Tiljullah 1st Lane. Area, more or less, 1 *bigha*, 3 *cottahs*.
- (8) New Kasiabagan burial-ground, Tiljullah 1st Lane. Area of Muhammadan portion, 12 *bighas*, more or less.
- (9) Sola-anna *Kobrastan*, No. 70, Ekbalpore Road. Area, 17 *bighas*, 18 *cottahs*, more or less.
- (10) Moonshee Ahmud Begg Ke *Kobrastan*, Halsu Talao, Ramnugger Lane. Area, 4 *bighas*, more or less.

THE SECOND SCHEDULE.

Rep. by the Calcutta Burial Boards (Amendment) Act, 1913
(Ben. Act 1 of 1913), s. 3.

¹ This Schedule is also referred to in s. 2, *ibid.*, p. 997.

BENGAL ACT 2 OF 1890

[THE BENGAL VACCINATION (AMENDMENT) ACT, 1890].¹

(12th March, 1890.)

An Act to amend the Bengal Vaccination Act, 1880.²Ben. Act 5 of
1880.

Whereas it is expedient to amend the Bengal Vaccination Act, 1880³; It is hereby enacted as follows:—

Preamble.

1. (*Commencement*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

2. In the preamble of the Bengal Vaccination Act, 1880⁴, for the words “the Town, Port and Suburbs” [of Calcutta] the words “the Town of Calcutta and the Port of Calcutta” shall be substituted.

Amendment
of preamble of
Ben. Act 5,
1880.

3. In section 1 of the same Act, for the words “the Town, Port and Suburbs” [of Calcutta] the words “the Town of Calcutta and the Port of Calcutta” shall be substituted.

Amendment
of section 1,
Ben. Act 5,
1880.

4. (1) In section 2 of the same Act, for the definition of “Town of Calcutta” the definition “‘Town of Calcutta’ means Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888”⁵, shall be substituted.

Amendment
of definition of
“Town of
Calcutta.”Ben. Act 2 of
1888.

(2) In the same section, add the following to the definition of “Port of Calcutta”—

Addition to
definition of
“Port of
Calcutta.”

“or any other law for the time being in force.”

(3) (*Repeal of definition of “Suburbs of Calcutta”*). *Rep. by the Repealing and Amending Act, 1903 (1 of 1903), now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.*

Ben. Act 6
of 1880.

5. (1) All rules made and orders issued under section 33⁶ of the Bengal Vaccination Act, 1880, relating to the Town of Calcutta in force immediately before the passing of this Act, shall be deemed to be in force in Calcutta as defined by the Calcutta Municipal Consolidation Act, 1888.⁷

Rules and
orders in force
before passing
of Act to be
in force in
Calcutta as
defined by
Ben. Act 2,
1888.Ben. Act 2
of 1888.

(2) The Local Government may, from time to time, modify or cancel such rules and orders.

(3) And all such rules and orders relating to the Suburbs of Calcutta are hereby repealed.

¹ SHORT TITLE.—This short title was given by the Repealing and Amending Act, 1903 (1 of 1903), Sch. I—see Vol. I of this Code. That Act is now known as the Amending Act, 1903—vide Act 10 of 1914, Sch. II.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1890, Pt. IV, p. 2; and for Proceedings in Council, see *ibid*, Supplement, pp. 2, 44, 172 and 200.

LOCAL EXTENT.—Since this Act merely amends the Bengal Vaccination Act, 1880 (Ben. Act 5 of 1880), it has the same local extent as the latter Act, as to which see footnote ¹ on page 468 *ante*.

The application of the Act is barred in the Chittagong Hill-tracts by the Chittagong Hill-tracts Regulation, 1900 (1 of 1900), s. 4 (2), printed in Vol. I of this Code.

² Printed *ante*, page 468.

³ The words “of Calcutta” in square brackets in ss. 2 and 3 were inserted by the Repealing and Amending Act, 1903 (1 of 1903), Sch. II—see Vol. I of this Code.

⁴ Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now be construed as a reference to s. 3 (7) of the latter Act in Vol. III of this Code—see the Bengal General Clauses Act, 1893 (Ben. Act 1 of 1893), s. 10, in Vol. III of this Code.

⁵ Printed *ante*, page 480.

BENGAL ACT 3 OF 1890
(THE CALCUTTA PORT ACT, 1890).
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BENGAL ACT 3 OF 1890

(THE CALCUTTA PORT ACT, 1890).¹

(28th May, 1890.

An Act to consolidate and amend the Law relating to the Port of Calcutta and to the appointment of Commissioners for the said Port.

Whereas it is expedient to consolidate and amend the law relating to the Port of Calcutta and to the appointment of Commissioners for the said Port; It is hereby enacted as follows :—

Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Calcutta Port Act, 1890; (2) *It shall come into force on such date² as the Local Government may direct, not being more than three months after the date on which it may be published in the Calcutta Gazette with the assent of the Governor General.*

Title and commencement.

2. (1) On the commencement of this Act, the enactments specified in the First Schedule shall be repealed to the extent mentioned in the third column thereof.

Enactments repealed.

(2) But this repeal shall not revive any office, authority or thing abolished by any such enactments, or affect the validity of anything done or suffered, or any right, title, obligation or liability accrued, before the commencement of this Act.

(3) All rules and by-laws prescribed, appointments made, powers conferred and notifications published under any such enactments shall, so far as may be, be deemed to be respectively prescribed, made, conferred and published under this Act.

¹ LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see Calcutta Gazette, 1890, Part IV, page 26; and for Proceedings in Council, see *ibid.*, 1889, Supplement, pages 661, 714, 960; *ibid.*, 1890, Supplement, pages 3, 45, 172, 200, 452, 604 and 604.

LOCAL EXTENT.—This Act extends only to the Port of Calcutta—see the title and preamble.

AMENDING ACTS.—Ben. Acts 4 and 6 of 1895 are to be read with, and taken as part of, Bengal Act 3 of 1890—see s. 1 (1) of each of the former Acts, in Vol. III of this code. Other amending Acts are Ben. Acts 2 of 1894, 2 of 1898, 4 of 1905, 2 of 1907, 1 of 1908, 1 of 1910 and 1 of 1912, printed in Vol. III of this Code.

HOWRAH BRIDGE.—For power to appoint the Calcutta Port Commissioners to carry out the purposes of the Howrah Bridge Act, 1871 (Ben. Act 9 of 1871), see ss. 1 and 12 of that Act, *ante*, pp. 217 and 220. As to the powers, rights and duties of the Commissioners when so appointed, and as to controlling powers of the Local Government, see *ibid.*, ss. 18 to 26, *ante*, pp. 220 to 225.

For power of the Commissioners to build or acquire vessels and employ them in the service of the Howrah Bridge and in carrying goods and passengers to and from Calcutta and Howrah, and to levy fees and charges for such services, see the Howrah Bridge Act, 1889 (Ben. Act 3 of 1889), *ante*, p. 469.

² The 1st June, 1890—see Calcutta Gazette, 1890, Pt. I, p. 509.

(Chapter I.—Preliminary.—Secs. 3, 4.).

(4) Any enactment or document referring to any enactments hereby repealed shall be construed to refer to this Act, or the corresponding portion thereof.

(5) Nothing herein contained shall deprive any person of any right of property, or other private right, except as herein-after expressly provided.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context,—

"The Commissioners."

(1) "the Commissioners" shall mean "the Commissioners of the Port of Calcutta" hereinafter incorporated;

"Commissioner."

(2) "Commissioner" shall mean a member of the said Corporation;

"Dock."

(3) "dock" shall include all basins, cuts, quays, wharves, warehouses, tramways, and other works and things appertaining to any dock;

"Goods."

(4) "goods" shall include wares and merchandise of every description;

"Land."

(5) "land" shall include the bed of the river below high-water-mark;

"Master."

(6) "Master," when used in relation to any vessel, means any person, not being a pilot, harbour-master or assistant harbour-master, having for the time being the command or charge of such vessel;

"Pier."

(7) "pier" shall include any stage, stairs, landing-place, jetty, floating-barge or pontoon, and any bridges or other works connected therewith;

"Port."

(8) "port" shall mean the Port of Calcutta;

"Vessel."

(9) "vessel" shall include any ship, barge, boat, raft or craft, or any other thing whatever, designed or used for the transport upon water of passengers or goods;

"Wharf."

(10) "wharf" shall include any bank of the river which may be improved to facilitate the loading or unloading of goods, and any foreshore used for the same, and any wall enclosing or adjoining such bank or foreshore.

CHAPTER II.

OF THE CONSTITUTION OF THE PORT COMMISSION.

Provisions of Act to be carried out by body of Commissioners.

4. The duties of carrying out the provisions of this Act shall, subject to such conditions and limitations as are herein-after contained be vested in a body of Commissioners to be called "the Commissioners for the Port of Calcutta"; and such body of Commissioners shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

¹ *See* s. 4 on this page.
² *See* s. 4 on this page.

of 1890.]

(Chapter II.—Of the Constitution of the Port Commission.—
Secs. 5-10.)

5. There shall be¹ [sixteen] Commissioners, that is to say,—
Chairman,
Vice-Chairman,
¹ [nine] elected Commissioners,
five nominated Commissioners.

Constitution of Commissioners.

6. (1) Of the elected Commissioners,—
² [six] shall be elected by the Bengal Chamber of Commerce,
one by the Calcutta Trades' Association,
one by the Commissioners of the Town of Calcutta,³
and
one by such body or bodies, or firms, as the Local Government shall, from time to time, select as best representing the interest of the native mercantile community.

Election of Commissioners.

(2) The election shall be made in such manner as may be determined by the electing bodies, subject to the approval of the Local Government; and the name of every person so elected shall be published in the Calcutta Gazette.

7. In the event of default being made by the electing bodies aforesaid in electing any Commissioner under the last preceding section within the period hereinafter⁴ prescribed in this behalf, it shall be lawful for the Local Government to appoint a person; and the person so appointed shall be deemed to be a Commissioner as if he had been elected.

In default of election, Local Government to appoint.

8. The nominated Commissioners, the Chairman and Vice-Chairman shall be appointed by the Local Government by notification in the Calcutta Gazette.

Local Government to appoint nominated Commissioners, Chairman and Vice-Chairman by notification.

9. The Chairman or the Vice-Chairman, as the case may be, shall continue to hold office until the Local Government cancels his appointment or appoints a successor.

Term of office of Chairman and Vice-Chairman.

10. Every person who shall be elected or appointed to be a Commissioner shall, subject to the provisions hereinafter contained, continue to hold the office to which he shall be elected

Term of office of Commissioners.

¹ These words "sixteen" and "nine" in s. 5, were substituted for the words "fifteen" and "eight," respectively, by the Calcutta Port (Amendment) Act, 1905 (Ben. Act 4 of 1905), s. 2, in Vol. III of this Code.

² This word "six," in s. 6 (1), was substituted for the word "five" by the Calcutta Port (Amendment) Act, 1905 (Ben. Act 4 of 1905), s. 3, in Vol. III of this Code.

³ This body is now called "the Corporation of Calcutta"—see the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), s. 6 (in Vol. III of this Code), which supersedes para. 1 of s. 4 of the Calcutta Municipal Consolidation Act, 1888 (Ben. Act 2 of 1888).

The Chairman, Vice-Chairman and Deputy Chairman of the Corporation of Calcutta are specially authorized to hold the office of Commissioner under the Calcutta Port Act, 1890—see the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), s. 87(b), in Vol. III of this Code.

⁴ See s. 14, post, page 1016.

(Chapter II.—Of the Constitution of the Port Commission.—
Secs. 11-17.)

or appointed for the term of two years; but may, at the expiration of such term; be re-elected or re-appointed.

Local Government to determine salary and allowances of Vice-Chairman; also to determine whether any fees should be paid to Chairman and Commissioners for attendance at meetings.

Power to grant leave of absence to Vice-Chairman.

Local Government to fix leave allowance of Vice-Chairman.

11. It shall be lawful for the Local Government, by an order from time to time, to determine whether any and what salary and allowances shall be paid to the Vice-Chairman, and whether any and what fees shall be paid to the Chairman and Commissioners for attendance at meetings for transaction of the business of the Trust; and, in the order directing the salary, allowances and fees to be paid as aforesaid, the Local Government may declare any conditions and restrictions upon and under which such salary, allowances and fees shall be payable.

12. It shall be lawful for the Local Government to grant leave of absence to the Vice-Chairman, and to appoint a person to officiate for such Vice-Chairman during his absence on leave.

13. (1) The Local Government shall also fix the amount of leave allowance to be granted to the Vice-Chairman, and the salary to be paid to the person who shall be appointed to his office.

(2) Any person appointed under ¹[the last preceding] section to act for the Vice-Chairman shall, while so acting, have all the powers, and be liable to all the restrictions and limitations, which the Vice-Chairman under this Act has and is liable to.

Vacancies in number of Commissioners to be filled within one month.

Mode of filling temporary vacancies.

Term of temporary appointments.

Mode of filling casual vacancies.

Disqualification of Commissioners.

14. All vacancies in the number of the Commissioners, whether elected or appointed under this Act, shall be filled by election or appointment, as the case may be, within one month.

15. (1) A temporary vacancy caused by the absence on leave of any Commissioner for a period not less than three months nor more than one year shall be filled up by election or appointment in the manner hereinbefore provided.

(2) A person elected or appointed under this section to fill a temporary vacancy shall hold office until the expiry of the term of leave granted to the Commissioner whose place he fills.

16. In the case of the death, resignation or disqualification of any Commissioner, a person shall forthwith be elected or appointed in his stead in the manner hereinbefore provided.

17. Every person who, at any time after his election or appointment as a Commissioner, shall be absent from six consecutive meetings without having the permission, in that behalf of the Commissioners, or who, having such permission, shall be absent from the meetings for a period exceeding one year;

(a) and every person who at any time after his election or appointment as a Commissioner shall accept or agree to accept

¹ The words "the last preceding," in s. 13 (2), were substituted for the word "this" by the Calcutta Port (Amendment No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 2, in Vol. III of this Code.

[1890.]

*(Chapter III.—Of the Borrowing Powers of the Commission.—
Sec. 18.)*

any office or place of profit, under this Act, except the office of Vice-Chairman; or

(b) who shall, save with the sanction of the Local Government, participate or agree to participate in the profits of any work done by order of the Commissioners or be concerned or participate in the profits of any contract entered into with the Commissioners,

shall thenceforth cease to be a Commissioner, and his office shall thereon become vacant:

Provided that no Commissioner shall vacate his office by reason only of his being a shareholder in any Company, registered under the provisions of any Act for the registration of joint-stock companies passed by any Indian Legislature or by the Parliament of the United Kingdom, or incorporated by Act of Parliament, Royal Charter or otherwise, with which the Commissioners may enter into any contract, or by reason of his being interested in any loan of money to the Commissioners:

Provided also that no Commissioner shall vacate his office by reason of his being interested in any purchase or lease of land or premises, the sale or lease of which the Commissioners may determine on at a meeting under the provisions of this Act; or of his being interested in any agreement under which facilities may be granted for the landing and shipment of goods in return for stipulated income guaranteed to the Commissioners in consideration of their undertaking to construct or provide such facilities.

CHAPTER III.

OF THE BORROWING POWERS OF THE COMMISSION.

18. If the Local Government shall, with the previous sanction of the Governor General in Council, by an order¹ published in the Calcutta Gazette, so direct, it shall be lawful for the Commissioners in meeting, from time to time, to raise money for the estimated cost of any of the following purposes sanctioned by the Local Government, to such extent as it may, from time to time, direct:—

Power to raise money for works.

- (a) the construction and repair of works and erections necessary or expedient for carrying out the purposes of this Act;

¹ For a list of orders made under section 18, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

(Chapter III.—Of the Borrowing Powers of the Commission.—
Secs. 19-20A.)

- (b) the acquisition of immovable and movable property requisite for such construction or repair as aforesaid; and
- (c) the payment of such salaries, fees and expenses, and such principal and interest, as may be due by the Commissioners.

Power to
borrow
moneys by
way of
debenture.

19. When an order has been published under the last preceding section, it shall be lawful for the Commissioners in meeting to borrow ¹ [within such dates as may be approved by the Governor General in Council] any sums of money the Commissioners may require for the objects mentioned in the last preceding section, by way of debenture on—

- (a) the security of the property now vested, or which may hereafter become vested in the Commissioners, and
- (b) the tolls, dues, rates, rents and charges leviable under this Act,

less the sum of five and-a-half *lakhs* set apart by the Commissioners as a reserve fund prior to the passing of this Act, and the further sums set apart by the Commissioners as a sinking fund for the purpose of paying off the loans contracted under the authority of this Act or any enactment hereby repealed.

Form and
transferability
of debentures.

20. [(1) All debentures which are issued under the authority of this Act shall be in such form as the Commissioner, with the previous consent of the Governor General in Council, shall from time to time determine.

(2) The holder of any debenture in any form duly authorized under this section may obtain in exchange therefor, upon such terms as the Commissioners shall from time to time determine, a debenture in any other form so authorized.

(3) Every debenture issued by the Commissioners shall be transferable in such manner as shall be therein expressed.]

Right to sue
on debentures
vested in
holders.

(4) The right to sue in respect of the moneys secured by any of such debentures, or the debentures issued under the authority of any enactment hereby repealed, shall be vested in the holders thereof for the time being, without any preference by reason of some of such debentures being prior in date to others.

Signature of
coupons
attached to
debentures.

20A. All coupons attached to debentures issued under the authority of this Act shall bear the signature of the

¹ These words in square brackets in s. 19 were inserted by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 2, in Vol. III of this Code.

² These sub-sections (1), (2) and (3) were substituted for the original sub-section (1) by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 2, in Vol. III of this Code.

³ This sub-section was re-numbered as sub-section "(4)" by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 2, in Vol. III of this Code.

⁴ Section 20A was inserted by the Calcutta Port (Amendment) Act, 1908 (Ben. Act 1 of 1908), s. 2, in Vol. III of this Code.

of 1890.]

(Chapter I.I.—Of the Borrowing Powers of the Commission.—
Secs. 21-24.)

Vice-Chairman, and such signature may be engraved, lithographed or impressed by any mechanical process.

21. All loans contracted by the Commissioners, whether by way of debentures or otherwise under this Act, shall be a first charge on the property now vested, or which hereafter may become vested, in the Commissioners and on the tolls, dues, rates, rents and charges leviable under this Act, as provided by section 19.

Loans contracted by Commissioners to be first charge on property.

22. The Commissioners in meeting may at any time, with the previous sanction of [and within such dates as may be approved by] the Governor General in Council, raise, either by borrowing from the Secretary of State for India in Council, or by way of debenture, any money that may be required to pay any amount for the time being due under the authority of this Act or any enactment hereby repealed.

Power to raise money for payment of loans.

23. Unless the Local Government, with the previous sanction of the Governor General in Council, shall, by an order¹ published in the Calcutta Gazette, otherwise direct, all loans contracted by the Commissioners under this Act shall be contracted in India and in the Indian currency.

Loans to be contracted in India and in Indian currency.

24. (1) The Commissioners shall, in respect of each loan contracted by them by way of debenture under sections 19 and 22 of this Act, set aside half-yearly out of their income, before making any disbursement, a sinking fund of such an amount as will suffice to liquidate each such loan within [within] such period, not exceeding sixty years, from the date of the contracting of the same as the Governor General in Council may in each case direct].

Establishment of sinking fund.

(2) The Commissioners in meeting may, at any time, apply the whole or any part of a sinking fund, set apart under this section, in or towards the discharge of the moneys for the repayment of which the fund has been established:

Application sinking fund

Provided that they pay into the fund in each year, and accumulate, until the whole of the moneys borrowed are discharged, a sum equivalent to the interest which would have been produced by the sinking fund, or the part of the sinking fund so applied.

(3) Such sinking fund shall be invested in the promissory notes and other securities of the Government of India, or in the debentures issued by the Commissioners under this Act, in the names of two trustees, one being the Commissioners,

Investment sinking fund

¹ These words in square brackets, in s. 22, were inserted by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 4, in Vol. III of this Code.

² For order made under s. 23, see the Bengal Local Statutory Rules and Orders, 1913, Vol. I, Pt. VI.

³ These words in square brackets in s. 24 (1) were substituted for the words "a period not exceeding thirty years from the date of the contracting of the same" by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 5, in Vol. III of this Code.

⁴ This word "within" is superfluous.

(Chapter III.—Of the Borrowing Powers of the Commission.—
Secs. 24A-27.)

and the other a person to be appointed by the Local Government.

Annual
examination
of sinking
fund.

¹ 24A. The sinking fund established for the liquidation of any loan shall be subject to annual examination by the Accountant-General, Bengal, who shall ascertain whether the cash and the current value of the securities at the credit of the fund are actually equal to the amount which would have been accumulated, had investments been regularly made, and had the rate of interest as originally estimated been obtained thereon.

The Commissioners shall pay forthwith into the sinking fund any amount which the Accountant-General may certify to be deficient, unless the Governor General in Council specially sanctions a gradual re-adjustment.

Power to
borrow
moneys for
construction
of work.

25. It shall be lawful for the Commissioners in meeting, from time to time, to borrow moneys from the Secretary of State for India in Council, at such rate of interest and upon such terms as to the time of repayment and otherwise, as the Governor General in Council may approve, for the construction, equipment, maintenance and management of any works or arrangements sanctioned by the Local Government under this Act.

Government
how to
proceed on
default of
payment of
interest.

26. In case of default of payment of any interest, the Secretary of State for India in Council shall have the same remedies as may be available to other debenture-holders of the Commissioners under this Act; but nothing in this Act shall be deemed to confer upon the said Secretary of State for India in Council any prior or greater right than that conferred upon other debenture-holders of the Commissioners under this Act.

Power to
re-pay loans
before due
date.

27. It shall be lawful for the Commissioners in meeting, if they think fit, out of any moneys which may come into their hands under the provisions of this Act, and which can be so applied without prejudicing the security of the other debenture-holders of the Commissioners under this Act, to repay to the said Secretary of State for India in Council any sum which, for the time being, may remain due to him under the provisions of this Act for principal, although the time fixed for the repayment of the same shall not have arrived :

Provided that no such repayment shall be made of any sum less than ten thousand rupees; and that, if such repayment is made, the amount of interest in each succeeding half-yearly instalment shall be adjusted so as to represent exactly the interest due on the outstanding principal.

¹ Section 24A was inserted by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 3 of 1907), s. 6, in Vol. III of this Code.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Secs. 28-31.)

CHAPTER IV.

OF THE GENERAL POWERS OF THE COMMISSION.

PART I.—Of the Duties of the Commission.

28. (1) No act or proceeding of the Commissioners shall be invalidated or illegal in consequence only of there being a vacancy in the number of the Commissioners at the time of doing or executing such act or proceeding.

Acts or proceedings of Commissioners not to be invalidated in consequence of vacancy.

(2) All proceedings of the Commissioners, or of any person acting as a Commissioner in the *bonâ fide* belief that he was duly elected or appointed, shall, notwithstanding it be afterwards discovered that there was some defect in the election or appointment of the Commissioner or person acting as aforesaid, be as valid as if every such person had been duly elected or appointed to be a Commissioner.

Proceedings not to be invalidated by informality in election or appointment.

29. The Commissioners may, from time to time, in accordance with a resolution passed at a meeting, appoint Committees of their number for carrying into effect any part of the provisions of this Act, with such powers, and under such instructions, directions or limitations, as by such resolution shall be defined; and on any such Committee three members shall be a quorum; and the Commissioners in meeting shall have power to alter or discontinue any such Committee.

Commissioners may appoint Committees.

30. (1) The Commissioners shall, from time to time prepare, and in meeting sanction, a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act.

Commissioners to prepare and in meeting sanction schedule of establishments.

(2) Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Commissioners in meeting sanction for each such officer or servant:

Provided that artisans, porters and labourers, and *sirdars* of porters and labourers, shall not be deemed to be officers or servants within the meaning of this section or of section 31, [except clause (g) thereof], section 32 or section 33 of this Act.

31. (1) The Commissioners in meeting shall, from time to time, frame rules¹—

Power to frame rules.

(a) for regulating the grant of leave to the officers and servants of the Commissioners;

¹ The words and figures "section 31, section 32 or section 33," in s. 30, were substituted for the words "the three next succeeding sections" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, in Vol. I of this Code. That Act is now known as the Amending Act, 1908—vide Act 10 of 1914, Sch. II,—see also s. 75, post, p. 1086.

² These words in square brackets in s. 30 were inserted by the Calcutta Port (Amendment) Act, 1910 (Ben. Act I of 1910), s. 2, in Vol. III of this Code.

³ For a rule made under section 31 (c), see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

[Ben. Act 3]

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Sec. 31.)

- (b) for authorizing the payment of allowances to the said officers and servants, or to certain of them whilst absent on leave;
- (c) for determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave;
- (d) for regulating the period of service of all such officers and servants;
- (e) for determining the conditions under which such officers and servants or any of them shall, on retirement, receive pensions, gratuities or compassionate allowances, and the amount of such pensions, gratuities or compassionate allowances; [and]¹
- (f) for authorizing the payment of contributions at certain prescribed rates, and, subject to certain prescribed conditions, to any Provident Fund which may, with their approval, be established by the officers and servants appointed under this Act;² [and
- (g) for determining the conditions under which pensions, gratuities or compassionate allowances may be paid to any of such officers or servants injured, or to surviving relatives of any such officers or servants killed, in the execution of their duty, whether the injury or death occurred before or after the commencement of the Calcutta Port (Amendment) Act, 1910]:

Ben. Act 1
of 1910.

Provided that officers and servants who were appointed by Government previous to the passing of the Calcutta Port Improvement Act, 1870,³ and whose salaries were paid from the fund known as "The Calcutta Port Fund," and who have continued in the service of the Commissioners appointed under the said Act and of the Commissioners constituted by this Act, shall be entitled to retiring pensions, gratuities or compassionate allowances at the same rates, and subject to the same conditions, as may, from time to time, be applicable to the servants of Government of similar standing and status.

Ben. Act 5 of
1870.

Local Govern-
ment to
determine
right to
pension, etc

(2) In the event of any question arising as to the right of any officer or servant, or any surviving relative of any officer or servant, to any pension, gratuity or compassionate allowance referred to in clause (e) or clause (g), or as to the amount thereof, such question shall be determined by the Local Government.

¹ *Et cetera* and."

² This sub-section, printed in square brackets in section 31, was inserted by the Calcutta Port (Amendment) Act, 1910 (Ben. Act 1 of 1910), s. 3 (1), in Vol. III of this Code.

³ Ben. Act 4 of 1870 was repealed by s. 2 (1) of the present Act, *infra*, p. 1018.

⁴ This sub-section was substituted for the original sub-section (f) by the Calcutta Port (Amendment) Act, 1910 (Ben. Act 1 of 1910), s. 3 (2), in Vol. III of this Code.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
 Part I.—Of the Duties of the Commission.—Secs. 32-34.)

(3) Rules made under clauses (a) to (e) (both inclusive)¹ [or clause (g)] shall not take effect unless and until they have been confirmed by the Governor General in Council.

Rules not to take effect until confirmed by Governor General in Council.

32. Subject to the provisions of the said rules, and of the schedule, for the time being in force, framed by the Commissioners under section 30, the power of appointing, promoting, suspending, dismissing, fining, reducing or granting leave to the officers and servants of the Commissioners shall be exercised by the Vice-Chairman in the case of officers and servants whose monthly salary does not exceed two hundred rupees; and in every other case by the Commissioners in meeting.

Vice-Chairman to exercise certain power with respect to officers and servants of Commissioners.

32A. Notwithstanding anything contained in section 57, all fines realized under the last preceding section shall be disposed of in such manner as the Commissioners may think fit.

Disposal of fines realised under section 52.

33. The power of dispensing with the services of any officer or servant of the Commissioners otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity or compassionate allowance, '[or of granting a pension, gratuity or compassionate allowance to any officer or servant injured, or to surviving relatives of any officer or servant killed, in the execution of his duty,] shall, subject to the provisions of section 31, be exercised by the Commissioners in meeting.

Commissioners in meeting to exercise certain power with respect to officers and servants.

34. (1) Every order made by the Commissioners under '[section 31, section 32 or section 33] shall, so far as the same relates to the Secretary, Engineer, Traffic Manager or Chief Accountant of the Commissioners, or to any other officer whose monthly salary shall exceed five hundred rupees, '[or to any surviving relative of any officer referred to in this section,] be subject to the previous sanction of the Local Government.

Certain orders of Commissioners subject to previous sanction of Local Government.

(2) In this section, the word "Engineer" means the Engineer of highest grade on the Commissioners' ordinary staff, and also any superior officer who may from time to time be employed in the capacity of Consulting Engineer to the Commissioners.

"Engineer" defined.

¹ The words "or clause (g)" were inserted in s. 31 (3) by the Calcutta Port (Amendment) Act, 1910 (Ben. Act 1 of 1910), s. 5 (3), in Vol. III of this Code.

² Section 32A was inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895), s. 5, in Vol. III of this Code.

³ These words in square brackets were inserted in s. 33 by the Calcutta Port (Amendment) Act, 1910 (Ben. Act 1 of 1910), s. 4, in Vol. III of this Code.

⁴ These words and figures in square brackets in s. 34 were substituted for the words "any of the three last preceding sections" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II, in Vol. I of this Code.

⁵ These words in square brackets were inserted in s. 33 by the Calcutta Port (Amendment) Act, 1910 (Ben. Act 1 of 1910), s. 5, in Vol. III of this Code.

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Secs. 35, 36.)

Works to be
constructed
and carried
out by Com-
missioners.

35. The works to be constructed and carried out by the Commissioners under the provisions of this Act may include—

- (1) docks, wharves, quays, stages, jetties and piers, within the port, with all necessary and convenient arches, drains, landing-places, stairs, fences and approaches; and quarters and buildings necessary for the residence of the officers employed therefor;
- (2) railways;
- (3) warehouses and sheds, with all necessary appliances for receiving and storing goods landed or to be shipped or carried, and places suitable for the sampling and selling of such goods;
- (4) laying down moorings for carrying out the purposes of this Act; and the erection of cranes, scales, and all other necessary means and appliances for loading and unloading vessels;
- (5) reclaiming, enclosing and raising any part of the river bank or the river bed within the port, which may be necessary for the execution of the works authorized by this Act, or otherwise for the purposes of this Act;
- (6) the construction and application of dredgers and other machines for clearing, deepening and improving the river bed within the port;
- (7) the building of steam-vessels required for the purpose of towing vessels in the port;
- ¹(7a) the building of vessels for the carrying of passengers and their personal effects within, or partly within and partly without, the limits of the port;
- (8) the construction of such works without the limits of the port as shall be necessary for the protection of works executed under this Act; and all such other works and appliances as may, in the opinion of the Commissioners in meeting, be necessary for carrying out the purposes of this Act.

Government
may order
local survey
and examina-
tion of
works.

Cost of survey
and examina-
tion to be
borne by
Commissioners.

36. (1) The Local Government may, at any time, order a local survey and examination of any works of the Commissioners under this Act, or the intended site thereof.

(2) The cost of such survey and examination shall be borne and paid by the Commissioners out of the moneys in their hands by virtue of this Act.

¹ This section was substituted for the former s. 35 by the Calcutta Port (Amendment No. 2) Act, 1906 (Ben. Act 6 of 1906), s. 2, in Vol. III of this Code.

² Clause (7a) was inserted by the Calcutta Port (Amendment) Act, 1905 (Ben. Act 4 of 1905), s. 4, in Vol. III of this Code.

[1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part I.—Of the Duties of the Commission.—Part II.—Of
the mode of transacting Business and entering into Con-
tracts.—Secs. 37-40).

37. (1) If the Commissioners shall allow any work constructed by them under this Act to fall into disrepair, or shall not complete any work commenced by them or included in any estimate as aforesaid¹ submitted and approved of, and shall not, after due notice in writing, proceed effectually to repair or complete such work under this Act, it shall be lawful for the Local Government to cause such work to be restored, completed or constructed, either by the officers of the Local Government or any private contractor.

Local Government to restore, complete or construct works on failure of Commissioners.

(2) The cost of any such restoration, completion or construction shall be a charge on the works and a debt due from the Commissioners to the Secretary of State for India in Council.

Cost of restoration, etc., of works to be debt due to Government.

38. (1) If at any time it shall appear to the satisfaction of the Local Government that the works intended to be accomplished under this Act have not been, and are not likely to be, properly carried out, or (if carried out) have not been, and are not likely to be, properly maintained by the Commissioners,

In default of execution of work, Local Government may withdraw and revoke powers of Commissioners.

it shall be lawful for the Local Government, by a notification to be published in the Calcutta Gazette, to declare that if, within a period of six months from the date of such notification, the Commissioners fail to take measures to the satisfaction of the Local Government for the carrying out or proper maintenance of the said works, the powers by this Act conferred on the Commissioners will, at the end of such period, be withdrawn and revoked.

(2) And upon the expiration of the said period of six months, it shall be lawful for the Local Government, by an order published in the Calcutta Gazette, to declare such powers revoked.

39. By such last-mentioned order, and without the necessity of any conveyance, all immovable and movable property, all rights of levying and recovering tolls, dues and rates, all benefit of contracts and all rights of suit, which at the time may be vested in the Commissioners under this Act, shall be transferred to and vested in Her Majesty; and the rights of all creditors of the Commissioners under this Act shall continue as against the Secretary of State for India in Council to the extent of the property so transferred to and vested in Her Majesty.

Property vested in Commissioners to be transferred to, and vested in, Her Majesty.

PART II.—Of the mode of transacting Business and entering into Contracts.

40. (1) The Commissioners shall meet, for the transaction of business, ordinarily once in every fortnight.

Meetings of Commissioners.

¹ Sic. in original.

[Sec. 41-47]

(Chapter IV.—Of the General Powers of the Commission.—
 Parts II.—Of the mode of transacting Business and entering into Contracts.—Secs. 41-47.)

(2) Such meetings shall be held upon such day and at such hour as the Commissioners shall from time to time determine.

(3) At every meeting of the Commissioners five members shall constitute a quorum.

Chairman may call special meetings of Commissioners or Committee.

41. The Chairman, or, in his absence, the Vice-Chairman may, whenever he thinks fit, and shall, upon request made in writing by three Commissioners or two members of any Committee, call a special meeting of the said Commissioners or Committee, as the case may be.

Chairman or Vice-Chairman to attend and preside at all meetings of Commissioners.

42. (1) The Chairman or Vice-Chairman shall attend all meetings of the Commissioners held under this Act, unless prevented by sickness or other reasonable cause; and the Chairman, or in his absence, the Vice-Chairman shall preside at every such meeting.

(2) In the absence of both the Chairman and the Vice-Chairman, the Commissioners present at any meeting may choose one of their number to preside.

President may adjourn meetings.

43. The President of any meeting at which a quorum of the Commissioners shall be present may, with the consent of the meeting, adjourn the meeting from time to time and from place to place.

Minutes of proceedings to be kept open for inspection free of charge.

44. (1) Minutes of the proceedings of all meetings of the Commissioners under this Act shall be drawn up and fairly entered in a book to be kept for that purpose, and shall be signed by the President after each meeting.

(2) The said minutes shall, at all reasonable times, be open at the office of the Commissioners to the inspection of any Commissioner without charge.

* Votes to be taken by President.

45. (1) Whenever necessary, the votes of the Commissioners present in meeting shall be taken by the President, and the resolution supported by the greater number of votes shall be deemed to be the resolution of the Commissioners at such meeting.

(2) The President shall have a second or casting vote in all cases of equality of votes:

Provided that, when votes are taken, any Commissioner present may require that the votes given on each side shall be recorded.

Copy of minutes of meetings to be preserved in Bengal Office.

46. A copy of the minutes of every meeting of the Commissioners shall, as soon as conveniently may be, be transmitted to such Secretary of the Local Government as shall, from time to time, be appointed for that purpose, and shall be preserved in the records of the office of such Secretary.

Chairman or Vice-Chairman may exercise certain powers of Committee.

47. All the powers, authorities and duties, in and by this Act conferred or imposed upon the Commissioners, may be exercised and performed by the Chairman or Vice-Chairman, save the powers, authorities and duties by this Act, or by any rule,

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part II.—Of the mode of transacting Business and entering into Contracts.—Secs. 48-53.)

by-law or order made under the provisions of this Act, conferred or imposed on, or restricted to, the Commissioners in meeting:

Provided that such powers, authorities and duties shall not be exercised by the Chairman or Vice-Chairman in contravention of any order issued or rule passed by the Commissioners in meeting.

48. The Commissioners, in accordance with a resolution passed at a meeting, may enter into contracts with any body corporate registered joint-stock company, or private person, for the execution or supply by them or him of any works, labour, materials, machines, stores or for other matters necessary for carrying into effect the trusts and purposes of this Act:

Power of Commissioners to enter into certain contracts.

Provided always that no contract, under or by virtue of which a sum greater than fifty thousand rupees may in any event be payable by the Commissioners, shall be valid without the assent of the Local Government.

49. The Commissioners in meeting may sanction works and enter into contracts for their execution:

Power of Commissioners in meeting to sanction works and make contracts for their execution.

Provided that no new work the estimated cost of which exceeds two thousand rupees shall be commenced until a plan and estimate have been approved by the Commissioners in meeting.

50. Notwithstanding anything contained in section 49, the Vice-Chairman may direct the execution of any work the cost of which does not exceed one thousand rupees, and may enter into contracts for the execution of such works.

Powers of Vice-Chairman as to execution of works.

51. (1) No new work, the estimated cost of which exceeds fifty thousand rupees, shall be commenced by the Commissioners, nor shall any contract be entered into by them in respect of any such work, until the plan and estimate shall have been submitted to, and approved by, the Local Government.

Certain new works subject to approval of Government.

(2) In case the estimated cost of any such new work shall exceed two lakhs of rupees, the Local Government shall not sanction the same until such plan and estimate shall have been approved by the Governor General in Council.

52. The Commissioners may in meeting compound or compromise for, or in respect of, any claim or demand made against them, for such sum of money or other compensation as they shall deem sufficient.

Commissioners may compound or compromise for any claim or demand made against them.

53. (1) Every contract and agreement¹ by or on behalf of the Commissioners which shall exceed the sum of one

Mode of executing contracts or agreements.

¹ These sections 49 and 50 were substituted for the original sections by the Calcutta Port (Amendment) Act, 1912 (Ben. Act 1 of 1912), s. 2, in Vol. III of this Code.

² As to the extension of s. 58 to bonds or other instruments giving security for import duty or for due exportation, see s. 122B, post, p. 1061

[Ben. Act 3]

(Chapter 1V.—Of the General Powers of the Commission.—
 Part II.—Of the mode of transacting Business and enter-
 ing into Contracts.—Part I.I.—Of the Property of the
 Commissioners.—Secs. 54-56.)

thousand rupees shall be in writing and signed by the Chairman or Vice-Chairman and by two other Commissioners, and shall be sealed with the common seal of the Commissioners.

(2) No contract nor agreement not executed as in this section is provided shall be binding on the Commissioners.

Officer or
servant not to
be concerned
or interested
in contracts or
works of
Commis-
sioners.

54. No officer or servant of the Commissioners shall be in anywise concerned or interested in any contract or work made with or executed for the Commissioners;

and, if any such officer or servant be so concerned or interested, he shall be incapable of afterwards holding or continuing in any office or employment under the Commissioners, and shall forfeit and pay the sum of five hundred rupees, which may be recovered by suit by any person with full costs of suit:

Provided that nothing in this section shall apply to any person by reason only of his being a shareholder in any registered or incorporated company which may enter into any contracts with, or execute any works for the Commissioners; or of his being interested as a debenture-holder in any loan contracted by the Commissioners.

PART III.—Of the Property of the Commissioners.

Powers of
Commissioners
as to property
within or
without
limits of port.

55. The Commissioners shall, for the purposes of this Act, have power to acquire and hold immovable or movable property, whether within or without the limits of the port, by conveyance, gift, lease, assignment or sale from the Governor General in Council, or the Local Government, on behalf of the Secretary of State for India in Council, or any corporate body, or any registered joint-stock company or private person; and they shall also have power in meeting to lease or sell any immovable or movable property which may have become vested in or been acquired by them:

Provided that no such sale, or other alienation or lease of any immovable property for any estate or interest exceeding the term of ten years, shall be valid unless the sanction of the Local Government to such sale, alienation or lease shall have been first obtained.

Powers of
Commissioners
to certain
cases subject
to assent of
Local
Government.

56. It shall not be lawful for the Commissioners to demise, farm, sell or alienate any power which, by or under this Act, may become vested in them of levying tolls, dues, rates, rents or charges, unless the assent of the Local Government to such demise, farm, sale or alienation shall have been first obtained.

of 1890.]

(Chapter IV.—of the General Powers of the Commission.—
 Part III.—Of the Property of the Commissioners.—Part
 IV.—Of the Assessment of the Property of the Commis-
 sioners.—Secs. 57-59.)

57. All property vested in, or acquired or held by, and all moneys paid or payable to, the Commissioners, shall be held upon trust for the purposes of this Act and not otherwise.¹

Property and moneys of Commissioners to be held upon trusts for purposes of Act.

58. (1) When any land or building is required for the purposes of this Act, the Local Government in its discretion may declare that the land or buildings is required for a public purpose; and may order proceedings to be taken for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to any law² in force for the acquisition of land for public purposes.

Acquisition of land or building for purposes of Act.

(2) On payment by the Commissioners of the compensation payable under such law, and of the charges reasonably incurred by the Collector in respect of the proceedings thereunder, such land or building shall vest in them for the purposes of this Act.

Land or building so acquired to vest in Commissioners.

PART IV.—Of the Assessment of the Property of the Commissioners.

59. For the purposes of municipal assessment, the annual value of the property vested in the Commissioners within the municipal limits of Calcutta shall be ascertained in the following way:—

Annual value of property vested in Commissioners how to be ascertained.

(1) The aggregate expenditure incurred in the construction of all docks, wharves, quays, stages, jetties, piers, and other works belonging to the Commissioners; also in the purchase of land; also in the construction of offices, warehouse and other buildings belonging to them within the limits of Calcutta, as defined by the Calcutta Municipal Consolidation Act, 1888³, shall be determined.

(2) Expenditure incurred in procuring or putting up machinery shall not be included in such aggregate expenditure.

(3) Expenditure incurred from time to time on account of repairs necessary to maintain any works or buildings in good order shall not be included in such aggregate expenditure.

Ben. Act 2 of 1888.

¹ For an exception to this rule, see s. 32A, *ante*, p. 1023.

² See now the Land Acquisition Act, 1894 (1 of 1894), printed in General Acts, 1887-97, Ed. 1900, p. 868.

³ Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 8 of 1899), and this reference should now be construed as a reference to s. 3, cl. (7), of the latter Act—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

[Ben. Act 2

(Chapter IV.—Of the General Powers of the Commission.—
Part IV.—Of the Assessment of the Property of the Commissioners.—Secs. 60-64.)

(4) Expenditure for the purpose of materially adding to, or improving, any work or building shall be included in such aggregate expenditure.

(5) Five *per cent.* on the aggregate expenditure determined in the manner hereinbefore provided shall be the annual value of the rateable property of the Commissioners, within the meaning of section 122 of the Calcutta Municipal Consolidation Act, 1888¹.

Ben. Act 2 of 1888.

Sum paid as consolidated rate on annual value to be nine-tenths of amount payable by ordinary owner.

60. The sum to be paid to the Corporation of Calcutta as the consolidated rate payable on the annual value determined as in the last preceding section provided shall be nine-tenths of the amount which would be payable by an ordinary owner occupying his own buildings and lands.

Amount to be paid by four quarterly instalments.

61. Such amount shall be payable in four quarterly instalments due on the first day of April, the 1st day of July, the first day of October and the first day of January for the quarters beginning with those days; and, if not so paid, the Corporation of Calcutta shall have the same remedies for the recovery of each instalment as in the case of other rate-payers.

Annual value to be determined by Calcutta Corporation.

62. The annual value shall, from time to time, be determined by the Corporation of Calcutta; and sections 130, 131, 133, 135 and 136 of the Calcutta Municipal Consolidation Act, 1888², shall apply to such valuation.

Ben. Act 2 of 1888.

Annual value may be fixed by local Government in certain cases.

63. In the event of the Commissioners being dissatisfied with the order passed on objection by the Chairman or Vice-Chairman of the Corporation of Calcutta, they may, within one month, make a reference to the Local Government; and the Local Government shall thereupon fix the annual value, in accordance with the provisions of section 59; and the decision of the Local Government shall be final and valid for a period of six years.

First valuation when to be made, and when to take effect.

64. The first valuation under the provisions of this Act shall be made when the new dock is opened to traffic; and if the annual value is fixed by the Local Government, in accordance with the provisions of the last preceding section, such valuation shall take effect from the date when the special notice is given under section 133³ of the Calcutta Municipal Consolidation Act, 1888.

Ben. Act 2 of 1888.

¹ Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now be construed as a reference to s. 161 of the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899)—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

² This reference should now be construed as a reference to ss. 158 (and 596), 674 (s. 156 in Table), 159, 509 and 151 of Ben. Act 3 of 1899—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

³ This reference should now be construed as a reference to s. 158 of the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899)—see the Bengal General Clauses Act, 1899 (Ben. Act 1 of 1899), s. 10, in Vol. III of this Code.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part IV.—Of the Assessment of the Property of the Commissioners.—Secs. 65-66D.)

65. (1) If, during the currency of a valuation made under the provisions of this Act, any new building, dock, jetty or other work is constructed, or any new land is acquired by the Commissioners, or any material improvement is made in any building, dock, jetty or other work within Calcutta, the Corporation of Calcutta may determine the annual value of such new building, work or land, or of such improvement, and may add it to the annual value previously ascertained.

Calcutta Corporation to determine annual value of new buildings, etc., if acquired during currency of valuation.

(2) The provisions of sections 59 to 63 (both inclusive) shall apply to such valuation.

66. At the expiration of the first valuation made under this Act, such valuation, including any alterations made under the last preceding section, may, if so agreed upon by the Commissioners and the Corporation of Calcutta, be renewed for a further period of six years; and may similarly be renewed, from time to time, for periods of six years.

Annual value may be renewed at expiration of first valuation.

66A. (1) For the purposes of municipal assessment, in cases where any land vested in the Commissioners is let out to tenants and any building or structure is erected thereon by such tenants, the annual value of such building or structure, when erected, shall be five *per cent.* on the estimated present cost of erecting such building or structure, less a reasonable amount to be deducted on account of depreciation, if any.

Mode of calculating annual value of building or structure.

(2) The buildings and structures in each holding, as recorded in the rent register of the Commissioners, shall be separately valued and assessed.

66B. Such building or structure may be valued annually at the discretion of the Corporation of Calcutta, and shall be so valued on the application of the owner. When not so valued, the former valuation shall remain in force from year to year until a re-valuation is made.

Building or structure to be valued.

66C. The sum to be paid to the Corporation of Calcutta as the consolidated rate payable on the annual value of such building or structure as determined in accordance with the provisions of the last preceding section shall be the total amount of the rates fixed under section 71 of the Calcutta Municipal Consolidation Act, 1888.¹

Sum to be paid as consolidated rate.

Ben. Act 2 of 1893.

66D. The Corporation of Calcutta, by a notice in writing, may require the owner of any such building or structure to furnish them with returns or the measurements thereof; and the Corporation of Calcutta or any person authorized by them in that behalf may, at any time between the hour of seven in

Returns of the measurements to be furnished.

¹ Sections 66A to 66N were inserted by the Calcutta Port (Amendment No. 2) Act, 1896 (Ben. Act 6 of 1896), s. 2, in Vol. III of this Code.

² Ben. Act 3 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now be construed as a reference to s. 124 of the latter Act—see the Bengal General Clauses Act, 1890 (Ben. Act 1 of 1890), s. 10, in Vol. III of this Code.

(Chapter IV.—Of the General Powers of the Commission.—
Part IV.—Of the Assessment of the Property of the Com-
missioners.—Secs. 66E-66I.)

the forenoon and sunset, enter on and inspect, survey and measure such building or structure, after giving to such owner a notice in writing of their intention, not less than twenty-four hours previous to such entry and inspection.

Penalty for
furnishing
false return.

¹ **66E.** Whoever refuses or fails to furnish any such return for the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or incorrect return,

and whoever hinders, obstructs or prevents the Corporation of Calcutta, or any person appointed by the Corporation of Calcutta as aforesaid, from entering, inspecting, surveying or measuring any such building or structure,

shall be liable to a fine not exceeding Rs. 200 for every such offence.

Notice before
valuing to be
given to the
Commissioners and
owner.

¹ **66F.** (1) Before valuing any such building or structure in accordance with the provisions of section 66B, the Corporation of Calcutta shall give notice to the Commissioners and the owner that, on or after a date not less than fifteen days from the receipt of such notice by the Commissioners and the owner, such valuation will be made.

(2) If the valuation so made exceeds the previous valuation, the Corporation of Calcutta shall include in the special notice provided for in section 66K (3) full details of the amount of such valuation.

Objections
how made by
owner.

¹ **66G.** If the owner of any building or structure is dissatisfied with a valuation made under the provisions of section 66A to section 66F (both inclusive), he shall, within fifteen days after the receipt of the special notice referred to in sections 66F and 66K, deliver at the office of the Corporation of Calcutta a notice in writing stating the grounds of his objection.

Hearing of
objection.

¹ **66H.** (1) All such objections shall be entered in a register to be maintained for the purpose; and, on receipt of any objection, notice shall be given to the objector of a day and place when his objection will be investigated.

(2) On the day and place notified, the Chairman or Vice-Chairman of the Corporation shall hear the objection, and such hearing shall be in the presence of the objector, if he shall appear; the Chairman or Vice-Chairman of the Corporation may also for reasonable cause at any time adjourn the investigation.

(3) The order passed on such objection shall be recorded in the register of objections, together with the date of such order.

Appeal from
decision of
Chairman.

¹ **66I.** (1) The owner of such building or structure if dissatisfied with the order passed on his objection, may appeal to the Court of Small Causes having jurisdiction in the place

¹ See foot-note 1 on p. 1081, ante.

(Chapter IV.—Of the General Powers of the Commission.—
 Part IV.—Of the Assessment of the Property of the Commissioners.—Secs. 66J-66L.)

where such building or structure is situated. Such appeal shall be presented to the Court of Small Causes within thirty days from the date of the order passed under section 66H, and shall be accompanied with an extract from the register of objections containing the order objected to.

(2) No appeal shall be admitted unless an objection has first been taken in accordance with the provisions of section 66G.

66J. The valuation by the Corporation of Calcutta, when no appeal therefrom is made, as hereinbefore provided, and the adjudication of any appeal under the last preceding section, when such appeal is made, shall be final and binding. Valuation and adjudication to be final.

66K. (1) The valuation so made by the Corporation of Calcutta, subject to such alterations as may, from time to time, thereafter be duly made, shall be entered in a book, to be called the assessment-book, and to be kept at the office of the Corporation, and in the same form, as far as may be, as the rent register of the Commissioners. Assessment, assessment-book, and special notice.

(2) A copy of such book and of all entries therein as modified from time to time, shall be supplied to the Commissioners, and shall be open to inspection between the hours of 11 A.M. and 5 P.M. at the head office of the Commissioners.

(3) A special notice, including an extract from the assessment-book showing the valuation of each building or structure, and stating the time within which an objection shall be lodged, shall, on the completion of the valuation under sections 66A to 66F (both inclusive), be given by the Corporation to the owner of such building or structure.

(4) The assessment calculated on the said valuation shall, subject to such alterations as aforesaid, be deemed to be the amount payable during the whole period for which the valuation is in force; and this period shall be calculated from the commencement of the quarter next succeeding that in which any alterations as aforesaid shall have been made; and until such date, the old valuation shall continue in force, notwithstanding that the period for which it was made may have expired.

66L. (1) The Corporation of Calcutta may, after giving notice to the Commissioners and the owner of such building or structure in the manner provided in section 66D, at any time amend the assessment-book, by inserting therein— Amendment of assessment-book.

(a) the name of any person whose name ought to be so inserted; or

(b) the description of any building or structure herein before mentioned liable to any such rate; or

(Chapter IV.—Of the General Powers of the Commission.—
Part IV.—Of the Assessment of the Property of the Commissioners.—Sec. 66M, 66N)

(c) the valuation, when such building or structure has not already been valued.

(2) The Corporation of Calcutta may, without notice, strike out the name of any person or the description of any building or structure not liable to the rate, or may reduce the amount of the valuation.

(3) All such changes shall be notified to the Commissioners and to the owner of the building or structure in the manner provided in section 66K; and the provisions of sections 66G, 66H, 66I and 66J shall, so far as may be practicable, apply.

Payment of
rate by the
Commissioners
to Corporation.

66M. (1) The Commissioners shall, during the first month of each succeeding quarter, pay to the Corporation of Calcutta the consolidated rate so assessed for the previous quarter for such portion of the previous quarter as the Commissioners' land was occupied by each tenant and the liability for rent incurred:

Provided that, unless notice of the termination of tenancy* during a quarter, has been given by the Commissioners to the Corporation of Calcutta within one month of such termination, the Commissioners shall be liable for the whole consolidated rate assessed in respect of such quarter.

(2) Before paying the consolidated rate assessed to the Corporation of Calcutta, the Commissioners shall deduct and retain a sum equal to one-eighth of such rate.

(3) For the recovery of any such sum, the Corporation of Calcutta shall have all such and the same remedies, powers, rights and authorities as they possess under the Calcutta Municipal Consolidation Act, 1888.

Ben. Act 2 of
of 1888.

Rates recover-
able from
owner of
building or
structure and
tenants of
land.

66N. (1) The Commissioners may recover from the owner of any such building or structure the whole of the rate so assessed, as hereinbefore stated, by the Corporation of Calcutta, in respect of any such building or structure.

(2) They may further recover from the tenants of the land assessed under sections 59 to 65, (both inclusive) an amount not exceeding one-half of the whole of the consolidated rate so assessed by the Corporation of Calcutta, in respect of such portions of the land as shall have been leased to such tenants.

(3) All sums so due shall be recovered and collected by the Commissioners, together with the rent payable to them by such tenants or owners in respect of such land or any such building or structure.

* See foot-note 1 on p. 1034, ante.

* Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1899 (Ben. Act 3 of 1899), and this reference should now be construed as a reference to the latter Act—see the Bengal General Clauses Act, 1896 (Ben. Act 1 of 1896), s. 19, in Vol. III of this Code.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
 Part IV.—Of the Assessment of the Property of the
 Commissioners.—Part V.—Of the Estimates of Income,
 Expenditure and Audit.—Secs. 67-69.)

(4) For the purpose of recovering such sums, the Commissioners shall have the same remedies, powers, rights and authorities as if such rates were rent recoverable by them.

67. (1) The Corporation of Calcutta, on being satisfied that any road or thoroughfare vested in the Commissioners is not less than forty feet in width, and has been duly levelled, paved, metalled, flagged, channelled and sewered, shall, at the request of the Commissioners, declare such road or thoroughfare to be a "public street" as defined by the Calcutta Municipal Consolidation Act, 1888¹; and thereupon the same shall become a public street and be from time to time lighted, cleansed, watered and repaired by the Corporation of Calcutta.

Ben. Act 2 of
1888.

Power of
Calcutta
Corporation
to declare
road or
thoroughfare
vested in
Commis-
sioners
a public
street.

(2) It shall not be competent to the Corporation of Calcutta to discontinue or stop up any such road or thoroughfare, without the previous consent of the Commissioners; and the land occupied by any road or thoroughfare so discontinued or stopped shall vest in the Commissioners, and not in the Corporation of Calcutta.

Corporation
not to
discontinue
or stop up
road or
thoroughfare
without
consent of
Commis-
sioners.

68. The Commissioners may, without parting with the control of any road or thoroughfare which is open to the public, or of the road of any dock, wharf or jetty, call upon the Corporation of Calcutta, to light, cleanse, and, if necessary, water such road; and thenceforward the Corporation of Calcutta shall light, cleanse, and, if necessary, water such road:

Calcutta
Corporation
may be
required to
light, cleanse
and water
roads.

Provided that such road shall remain vested in the Commissioners, and shall not be stopped or discontinued, or temporarily closed, except by the Commissioners or with their consent.

Part V.—Of the Estimates of Income, Expenditure and
 Audit.

69. (1) The Vice-Chairman shall, at a special meeting to be held in the month of February in each year, lay before the Commissioners an estimate of the income and of the expenditure of the Commissioners for the year commencing on the first day of April then next ensuing, in such detail and form as the Local Government shall, from time to time, direct.

Estimate of
income and
expenditure to
be laid before
Commis-
sioners
at special
meeting.

(2) Such estimate shall be completed and printed, and a copy thereof sent by post or otherwise to each Commissioner at least ten clear days prior to the meeting before which the estimate is to be laid.

Estimate
when to
be laid.

¹ Ben. Act 2 of 1888 has been repealed and re-enacted by the Calcutta Municipal Act, 1890. (Ben. Act 3 of 1890), and this reference should now be construed as a reference to s. 2, cl. (2) of the latter Act—the Bengal General Clause Act, 1890 (Ben. Act 1 of 1890), s. 10 in Vol. III of this Code.

(Chapter IV.—Of the General Powers of the Commission.—
Part V.—Of the Estimates of Income, Expenditure and
Audit.—Secs. 70-76.)

Commissioners in meeting to consider and sanction estimate.

Power of Local Government to disallow estimate and return it for amendment.

Estimate to be re-submitted to Local Government after amendment.

Commissioners may cause supplementary estimate to be prepared.

Supplementary estimate to be submitted to Local Government.

Adherence to estimate.

Excess expenditure to be reported to Local Government.

Commissioners not to maintain office or servants without authority.

Audit and examination of accounts.

Auditor to be appointed by Commissioners in meeting.

70. The Commissioners in meeting shall consider the estimate as submitted to them, and shall sanction the same either unaltered or subject to such alterations as they shall think fit.

71. (1) The estimate as sanctioned by the Commissioners shall before the beginning of the year for which the estimate is made, be submitted to the Local Government, who may, if it thinks fit, at any time within three months after receipt of the same, disallow such estimate, or any portion thereof, and return the same for amendment.

(2) The Commissioners shall, if the estimate is so returned, forthwith proceed to amend the same; and shall re-submit the estimate so amended to the Local Government.

72. (1) The Commissioners may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them.

(2) Every such supplementary estimate shall be considered and sanctioned by the Commissioners in meeting, and submitted to the Local Government in the same manner as if it were an original annual estimate.

73. Save in cases of pressing emergency, no sum chargeable against income and exceeding five thousand rupees shall be expended, by or on behalf of the Commissioners, unless it be covered by an estimate sanctioned under this Part and finally approved by the Local Government and in force at the time.

74. If any sum exceeding five thousand rupees in amount is so expended on a pressing emergency, the circumstances shall be forthwith reported by the Vice-Chairman to the Local Government, together with an explanation of the way in which it is proposed by the Commissioners to cover such extra expenditure.

75. No officer or servant, as defined in section 30, may be maintained by the Commissioners, unless his salary has been provided in an estimate at the time in force.

76. (1) The accounts of the receipts and expenditure under this Act shall once in every year be audited, examined and laid before the Local Government.

(2) Within fourteen days after the audit and examination shall have been completed, the auditor shall report upon the accounts audited and examined, and shall deliver such report

* This section 76 was substituted for the original section by the Calcutta Port (Amendment) Bill, Act 1 of 1912, s. 3, in Vol. III of this Code.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—

Part IV.—Of the Estimates of Income, Expenditure and
Audit.—Part VI.—Of Landing-places and Bathing-ghats.

—Secs. 77-82.)

to the Commissioners in meeting, who shall cause the same to be deposited in the office of the Commissioners and to be published in the Calcutta Gazette and in some one or more of the daily newspapers published in Calcutta.

77. The audit shall be made by such public department, or by such auditors as shall, from time to time, be appointed by the Local Government.

78. (1) For the purposes of any audit and examination of accounts under this Act, the auditors may, by summons in writing, require the production before them of all books, deeds, contracts, vouchers, and all other documents and papers which they may deem necessary.

and may require any persons holding or accountable for any such books, deeds, contracts, accounts, vouchers, documents or papers to appear before them at any such audit and examination, or adjournment thereof, and to make and sign a declaration with respect to the same.

(2) If any such person neglect or refuse so to do, or produce any such books, deeds, contracts, accounts, vouchers, documents or papers, or to make or sign such declaration, he shall be liable for every neglect or refusal to a penalty not exceeding one hundred rupees.

79. All auditors, not being a public department, acting under this Act, shall in respect of each audit, be paid by the Commissioners such remuneration as the Local Government shall, from time to time, determine.

80. A copy of the accounts to be audited and examined shall be deposited in the office of the Commissioners, and thereat be open during office hours to the inspection of any person on payment of a fee of one rupee on each occasion of inspection, for seven days before the audit and examination; and all such persons shall be at liberty to take copies of, or extracts from, the same without further payment.

PART VI.—Of Landing-places and Bathing-ghats.

81. The Commissioners in meeting shall provide a sufficient number of public landing-places¹, from and upon which the public shall be permitted to embark and to land free of charge.

82. It shall be lawful for the Commissioners in meeting, if they consider it necessary for the purposes of this Act, to occupy or remove any bathing-ghat² or landing-place³ within

¹ For lists of landing-places provided under ss. 81 and 82, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.
² For lists of bathing-places provided under s. 82, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

Local Government to appoint auditors.

Auditors may require production of books, etc., for audit of accounts.

Penalty.

Remuneration to auditors not being a public department.

Accounts to be kept in office of Commissioners and be open for inspection.

Commissioners in meeting to provide public landing-places.

Powers with respect to occupying or removing bathing-ghats or landing-places.

[Sec. 83-85]

*(Chapter IV.—Of the General Powers of the Commission.)**Part VII.—Of the erection of Wharves, Quays, Stages, Jetties, Piers or Moorings.—Secs. 83-85.)*

the port; and thereafter to prohibit the public from resorting to or using the same:

Provided that the Commissioners shall reserve, set out, make and provide for the use of the public, such sufficient bathing-ghats¹ within the port as the Local Government may direct.

PART VII.—Of the erection of Wharves, Quays, Stages, Jetties, Piers or Moorings.

Wharves, etc.
not to be
erected by
private person
without
assent of
Local
Government.
Penalty for
unlawfully
erecting
wharves, etc.

83. It shall not be lawful for any person or persons, save the Commissioners, to make, erect or fix below high-water-mark within the port any wharf, quay, stage, jetty, pier, erection or mooring, unless the assent of the Local Government shall have been first obtained.

84. Any matter or thing which may be so made, erected or fixed may be removed by the Commissioners;

and the person who shall have so made, erected or fixed any such matter or thing shall be liable on conviction to a fine which may extend to one thousand rupees, and to a further fine which may extend to one hundred rupees for every day during which such matter or thing shall have been permitted to remain so made, erected or fixed after notice to remove the same shall have been given to him;

and shall also be liable to pay all expenses which may have been incurred by the Commissioners in removing such matter or thing:

Provided that this section shall not apply to moorings laid down or to be laid down by the Conservator of the Port.

Power to
remove wharf
etc., if erected
without limit
of port.

85. In case any wharf, quay, stage, jetty, pier, erection or mooring may have been, or shall hereafter be, made, erected or fixed below high-water-mark without the limits for the time being of the port, and thereafter the limits of the port shall be extended so as to include the place on which such wharf, quay, stage, jetty, pier, erection or mooring shall have been made, erected or fixed,

it shall be lawful for the Commissioners, with the sanction of the Local Government in writing, to remove, fill up or destroy such wharf, quay, stage, jetty, pier, erection or mooring:

Provided that any person who may have lawfully made, erected or fixed such wharf, quay, stage, jetty, pier, erection or mooring, or who may have acquired a prescriptive right thereto by possession of sixty years or upwards, his representatives or assigns, shall be entitled to institute a civil suit for

¹ For lists of bathing-places provided under s. 82, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—Part
 VII.—Of the erection of Wharves, Quays, Stages, Jetties,
 Piers or Moorings.—Secs. 86-89.)

the award of compensation to him for the injury caused by the removal, filling up, or destruction hereinbefore mentioned.

86. Whenever any wharves, quays, stages, jetties, piers, erections or moorings have, under the last preceding section, been removed, filled up or destroyed, the Commissioners shall make or provide for the use of the public such sufficient and convenient wharves, quays, stages, jetties, piers, erections or moorings, in the place of those that may be removed, filled up, or destroyed, as the Local Government may direct.

Commissioners
to provide
wharves, etc.,
for use of
public.

87. When the Local Government shall, under the provisions of any Act for the regulation of duties of customs, appoint any wharf, quay, stage, jetty, or pier, erected or acquired under this Act for the use of sea-going vessels, to be a wharf for the landing of goods within the meaning of such enactment,

Commissioners
to provide
wharves, etc.,
for use of
Customs
Officers.

the Commissioners shall set apart, maintain and secure on such wharf, quay, stage, jetty or pier, such portion thereof, or place therein, or adjoining thereto, for the use of the officers of Customs, as the Local Government shall in that behalf approve or appoint.

88. Notwithstanding that any wharf, quay, stage, jetty or pier, or portion thereof, shall, under the provisions of the last preceding section, have been set apart for the use of the officers of Customs, all tolls, dues, rates, rents or charges payable in respect thereof, or for the use thereof, or for the storage of goods thereupon, shall be paid and payable to the Commissioners, or to such person or persons as they may appoint to receive the same.

Tolls, etc., in
respect of
wharves, etc.,
set apart for
Customs
officers to be
paid to Com-
missioners.

89. (1) In case any damage or mischief shall be done to any dock, wharf, quay, stage, jetty, pier or works constructed or acquired by the Commissioners under the provision of this Act, by any vessel, through the negligence of any person having the guidance or command thereof, or of any of the mariners or persons employed therein,

Magistrate to
summon
masters of
vessels with
respect to
damage caused
to wharves,
etc.

it shall be lawful for any Magistrate, having jurisdiction in the place where such damage or mischief is alleged to have been committed, on the application of the Commissioners, to issue a summons to the master of, or agent for, such vessel, requiring him to attend on a day and at an hour named in the summons to answer touching such damage or mischief:

Provided that if, at the time of the damage or mischief, the vessel was under the orders of a duly authorized officer belonging to the Pilot Service or the Harbour Master's or Port Officer's department, the case shall not be cognizable by the Magistrate under this section.

¹ See the Sea Customs Act, 1878 (8 of 1878), in General Acts, 1868-78, Ed. 1900, p. 418.

(Chapter IV.—Of the General Powers of the Commission.—
 Part VIII.—Of the Landing and Shipment of Goods.—
 Secs. 90, 91.)

Magistrate
to issue
warrant
of distress if
damage to
wharves, etc.,
caused by
negligence.

(2) If, at the time appointed in the summons, and whether the person summoned shall appear or not, the Magistrate finds that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two hundred rupees,

it shall be lawful for the Magistrate to issue his warrant of distress under which a sufficient portion of the boats, masts, spars, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of, and attending the execution of, the distress and the pecuniary amount of damage as aforesaid;

and such amount shall be paid to the Commissioners out of the proceeds of distress.

PART VIII.—Of the Landing and Shipment of Goods.

Commissioners
to provide for
landing, etc.,
goods from
sea-going
vessels.

90. The Commissioners shall, when thereunto required by the Local Government, provide and keep and maintain sufficient servants and apparatus for the expeditious and convenient landing and shipment of goods from and upon all sea-going vessels brought to the docks, wharves, quays, stages, jetties or piers erected by them;

and shall, by their servants¹ [or agents], land and ship all goods from and upon any such vessel so coming to such dock, wharf, quay, stage, jetty or pier, unless where there is a legal excuse for refusing to land or ship such goods, or such vessel is by reason of the breach or non-observance of any law or regulation, not entitled to have her goods shipped or discharged:

² [Provided that, in the case of cargoes of petroleum, it shall be lawful for the Commissioners not only to land the petroleum from all sea-going vessels, but also by their servants or agents to put the petroleum out of the hold and overside such vessels:]

Provided³ [further] that the Commissioners shall not be bound to land, ship or move any single article or package exceeding thirty tons of twenty hundred-weight in weight, except at such special charge as may be agreed on in respect of such article or package.

Commis-
sioners to
grant receipts
for goods
landed by
them.

91. (1) Whenever any goods shall be landed by the Commissioners from any vessel under the powers by this Act conferred on them, they shall if thereunto required, give to the person in charge of such vessel a receipt in the form or to the

¹ The words "or agents" in s. 90 were inserted by the Calcutta Port (Amendment No. 1) Act 1896 (Bor. Act 4 of 1896), s. 4, in Vol. III of this Code.

² This proviso was inserted in s. 90 by the Calcutta Port (Amendment No. 2) Act, 1896 (Bor. Act, 4 of 1896), s. 4, in Vol. III of this Code.

³ The word "further" in this proviso to s. 90 was inserted by the Calcutta Port (Amendment No. 3) Act, 1896 (Bor. Act 4 of 1896), s. 4, in Vol. III of this Code.

of 1890.]

(Chapter IV—Of General Powers of the Commissioners—Part
VIII.—Of the Landing and Shipment of Goods.—Secs. 92-95.)

effect prescribed in the ¹ [Second] Schedule; and may, in any such receipt, include all goods landed from such vessel during one day.

(2) No person to whom such receipt shall have been so given, nor the master nor owner of the vessel from which the goods in respect of which such receipt shall be given may have been landed, shall be liable for any loss or damage to such goods which may occur after they shall have been so landed.

Liability for loss, etc., of goods to cease when once landed.

92. When any dock, wharf, quay, stage, jetty or pier erected under the provisions of this Act shall have been made and completed, together with sufficient warehouses, sheds, cranes and moorings for landing and shipment, or for landing or for shipment of goods from and upon sea-going vessels,

Commissioners to declare when docks, etc., are ready for landing goods from sea-going vessels

it shall be lawful for the Commissioners, with the sanction of the Local Government, by a notification published in three consecutive numbers of the Calcutta Gazette, to declare that such dock, wharf, quay, stage, jetty or pier² is ready for receiving, landing and shipment, or for landing or for shipment of goods from and upon sea-going vessels.

93. From and after such notification and publication, it shall be lawful for the Commissioners to require the Conservator of the Port, or other persons exercising the rights, powers and authorities of the Conservator of the Port from time to time, when there shall be room at such dock, wharf, quay, stage, jetty or pier, to order to come alongside of such dock, wharf, quay, stage, jetty or pier² for the purpose of being laden or unladen by the Commissioners, any sea-going vessel which shall not have commenced to discharge goods, or which, being about to take in goods, shall not have commenced to take in goods.

Commissioners may order sea-going vessel to load or unload at docks, etc., when accommodation available

94. If after such order of the Conservator of the Port or other person aforesaid, the owner or master of any such ³ [vessel] shall either take in or discharge goods, save and except at such dock, wharf, quay, stage, jetty or pier² to which such vessel shall have been so ordered,

Penalty for landing or shipping goods in contravention of order.

the owner thereof, or, in case he shall not be in Calcutta, the master thereof, shall be liable to a penalty of one hundred rupees for each day that he shall land or ship, or attempt to land or ship, any goods in contravention of such order.

95. (1) When a sufficient number of docks, wharves, quays, stages, jetties or piers shall have been erected under this Act for the landing and shipment of goods of all sea-going vessels resorting to the port, it shall be lawful for the Commissioners in meeting, with the sanction of the Local Government, by an

Power to direct goods not to be landed from sea-going vessels save at docks, etc., specified by Commissioners.

¹ The word "Second" in s. 91 (1) was substituted for the word "Third" by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 7, in Vol. III of this Code.

² For power to authorize the landing or shipments of goods elsewhere, see the proviso to s. 96, 304, p. 1043.

³ The word "vessel," in s. 94, was substituted for the word "vessels" by the Repealing and Amending Act, 1908 (1 of 1908), Sch. II—see Vol. I of this Code.

[Beng. Act 2]

(Chapter IV.—Of the General Powers of the Commission.—Part
VIII.—Of the Landing and Shipment of Goods.—Secs.
96-98.)

order published in three consecutive numbers of the Calcutta Gazette, to direct that, without the express sanction of the Commissioners, no goods shall be landed or shipped from or upon any sea-going vessel within the port save at such docks, wharves, quays, stages, jetties or piers,¹

(2) and, by an order in like manner published, to alter, vary or revoke any such order.

Penalty for
landing or
shipping
goods after
publication
of order.

96. Whoever shall, after such order has been so published as aforesaid, land or ship, or attempt to land or ship, any goods in contravention of such order, shall be liable to a fine not exceeding two hundred rupees for every day that he shall so land or ship any goods in contravention of the said order:

Provided that, notwithstanding anything in this or in sections 92, 93 and 94 contained, it shall be lawful for the Local Government, by a notification in the Calcutta Gazette, from time to time, if it shall so think fit, to declare that certain specified vessels or classes of vessels shall be permitted to discharge or ship goods or that certain specified goods or classes of goods shall be permitted to be landed or shipped, elsewhere, and at such part of the Port of Calcutta and for such time and on such conditions as it may think fit.

Commis-
sioners to
declare when
docks, etc.,
are ready for
landing goods
from inland
vessels.

97. (1) When any dock, wharf, quay, stage, jetty or pier for receiving, landing or shipment of goods from vessels (not being sea-going vessels) shall have been made and completed with all proper appliances in that behalf,

it shall be lawful for the Commissioners in meeting, with the sanction of the Local Government, by an order² published in three consecutive numbers of the Calcutta Gazette, to declare that such dock, wharf, quay, stage, jetty or pier is ready for receiving, landing or shipment of goods from vessels (not being sea-going vessels),

and in the same way and with the same sanction to order that, within certain prescribed limits to be therein specified in that behalf, it shall not be lawful, without the express sanction of the Commissioners, to land or ship any goods out of, or into, any vessel (not being a sea-going vessel) of any class specified in such order, except at such dock, wharf, quay, stage, jetty or pier,¹

(2) and, by an order in like manner published, to alter, vary or revoke any such order.

it may be
substituted for
word of
commissioners.

98. Whenever any order made and published under sections 95 and 97 shall have the effect of rendering it unlawful to land or ship any goods out of, or into, any vessel at any

¹ As to private wharves, etc., see s. 88 on this page.

² For a list of orders made under section 97, see the Bengal Local Statutory Rules and Orders, 1911, Vol. I, Pg. VI.

of 1890].

(Chapter IV.—Of the General Powers of the Commission.—
 Part VIII.—Of the Landing and Shipment of Goods.—
 Secs. 99-102.)

wharf, quay, stage, jetty or pier lawfully made, erected or fixed by any person for the convenience of private traffic, or to which a prescriptive right may have been acquired by possession of sixty years or upwards,

such person, his representatives or assigns, shall be entitled to institute a civil suit for the award of compensation to him for the injury caused by the order hereinbefore mentioned:

Provided that, in awarding such compensation, the Court shall not take into consideration any tolls, dues, rates or charges which the aforesaid person claiming compensation shall be liable to pay for using the wharf, quay, stage, jetty or pier provided by the Commissioners for public use:

Provided also that it shall be lawful for the Commissioners, in lieu of closing any wharf, quay, stage, jetty or pier under either of the said sections, to allow the continued use thereof on payment of such scale of tolls, dues, rates and charges as may be agreed upon between the owners thereof and the Commissioners.

99. (1) After the publication of the order mentioned in section 97 of this Act, it shall not be lawful for any vessel of such class to land or ship any goods at any place within the limits so specified except at such dock, wharf, quay, stage, jetty or pier; nor for any such vessel, while within such limits, to anchor, fasten or lie within fifty yards of the ordinary low water-mark, without the consent of the Commissioners.

Goods not to be landed from inland vessels save at docks, etc.

(2) Any person guilty of any breach of the provisions of this section shall be liable to a fine not exceeding fifty rupees for every such breach.

Penalty for breach of provisions.

100. If, after the publication of the order mentioned in section 97 of this Act, any such vessel shall, while within such limits, so anchor, fasten or lie, it shall be lawful for the Commissioners to cause the same to be removed out of the said limits; and it shall be the duty of the Conservator of the Port to aid and assist the Commissioners in so removing such vessel.

Power to remove vessels lying within fifty yards of low-water-mark.

101. The Commissioners may, by notice in writing, order the master, owner or agent of any vessel to remove such vessel from any dock, wharf, quay, stage, jetty, or pier belonging to the Commissioners.

Commissioners may require masters to remove vessels from docks, etc.

102. Unless such vessel shall be removed therefrom within thirty-six hours after service of such notice on the officer in charge of such vessel, or the master, owner or agent thereof, it shall be lawful for the Commissioners to charge, in respect of such vessel for the use by such vessel of such dock,

Power to charge vessels for use of docks, etc. after service of notice for their removal.

[Sole Port]

*(Chapter IV.—Of the General Powers of the Commission.—**Part IX.—Of Levying Tolls and Rates.—Secs. 103-105.)*

wharf, quay, stage, jetty or pier, such sum not exceeding five hundred rupees for each day of twenty-four hours, or portion of such day, after the expiry of such thirty six hours, during which such vessel shall remain at such dock, wharf, quay, stage, jetty or pier as to the Commissioners shall seem fit.

PART IX.—Of Levying Tolls and Rates

Commissioners to frame scale of tolls, etc. for landing goods from sea-going vessels.

103. The Commissioners shall frame a scale¹ of tolls, dues, rates and charges for the landing and shipment of goods from and into sea-going vessels at the docks, wharves, quays, stages, jetties and piers belonging to the Commissioners, and for the use thereof by such vessels, and for the storing and keeping of any goods stored in any premises belonging to them, and for the removal of goods, and for the use of any moorings laid down or acquired by the Commissioners, and for the towage of vessel by the steam-vessels of the Commissioners in the Port.

Commissioners to frame scale of tolls, etc. for landing goods into inland vessels.

104. The Commissioners shall also frame a scale² of tolls, dues, rates and charges for the landing and shipment of goods into and out of any vessel (not being a sea-going vessel);

.

Commissioners to frame scales of tolls for use of docks, etc., by vessels.

104A. (1) The Commissioners shall also frame scales³ of tolls for the use of their docks, wharves, quays, stages, jetties and piers by vessels, whether sea-going or not, leviable when the Commissioners permit goods to be landed or shipped by persons other than their own officers and servants.

(2) The scales for sea-going vessels and vessels other than sea-going vessels may be either the same or different, as the Commissioners may think fit.

Commissioners to frame scale of charges for services in respect of vessel or goods, etc.

105. The Commissioners shall also frame a scale⁴ of charges for any services to be performed by the Commissioners or their servants in respect of any vessel or goods, or for the use of any works or appliances to be provided by the Commissioners.

¹ For a list of scales framed under section 103, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

² For a list of scales framed under sections 104, 104A and 105, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ The words "and also a scale of tolls for the use of the said docks, wharves, quays, stages, jetties, and piers by any such vessel, in case the Commissioners shall permit the goods to be landed or shipped by other than their own officers and servants," were repealed by the Calcutta Port (Amendment No. 3) Act, 1906 (Ben. Act 4 of 1906), s. 6, and are omitted—see now s. 104A, on this point.

⁴ Section 105A was inserted by the Calcutta Port (Amendment No. 3) Act, 1906 (Ben. Act 4 of 1906), s. 7, in Vol. III of this Code.

⁵ This section was substituted for the original section 105 by the Calcutta Port (Amendment No. 3) Act, 1906 (Ben. Act 4 of 1906), s. 6, in Vol. III of this Code.

of 1889.]

(Chapter IV.—Of the General Powers of the Commission.—
Part IX.—Of Levying Tolls and Rates.—Secs. 105A-108.)

105A. The Commissioner shall also frame a scale¹ of charges for the carrying of passengers and their personal effects on vessels belonging to or hired by the Commissioners.

Charges for carrying passengers and their personal effects on Commissioners' vessels.

106. The Commissioners shall also frame a scale² of tolls, [rates, charges and fees], annual of other, to be paid by the owners of³ "vessels plying"⁴ [whether for hire or not, and] whether regularly or occasionally within, or partly within and partly without, the limits of the port, "in respect of such vessels and of persons, whether in charge of, or on board, such vessels, and also in respect of the licensing, registration and regulation of such vessels and persons] :

Commissioners to frame scale of tolls, rates, charges and fees in respect of vessels plying within limits of port and in respect of persons thereon.

Provided that no such tolls,⁵ [rates, charges and fees] shall be chargeable in respect of vessels which are liable to pay port dues under the provisions of Schedule I of the Indian Ports Act, 1889⁷.

1) of 1889.

107. (1) Such scales of tolls, dues, rates and charges shall be adopted by the Commissioners in meeting, and shall be submitted to the Local Government; and after receiving its approval shall be published by the Commissioners in the Calcutta Gazette, and may from time to time, subject to the like approval and publication, be in like manner altered.

Scale of tolls, etc., to be published after approval by Local Government.

(2) It shall also be competent to the Local Government at any time to cancel any of the scales framed under sections 103 to 106 (both inclusive), or to call upon the Commissioners to modify any portion of such scales; and thereupon the Commissioners in meeting shall modify such scales accordingly.

Power of Local Government to cancel scale of tolls, etc.

108. " [The Commissioners may from time to time] charge upon all⁸ [or any portion or description of] goods landed from or shipped into any⁹ [sea-going] vessel lying or

Power of Commissioners to charge additional or differential tolls, etc., on all or any portion or description of goods, to provide for payment of debt.

¹ Section 105A was inserted by the Calcutta Port (Amendment) Act, 1906 (Ben. Act 4 of 1906) s. 6, in Vol. III of this Code.

² For a list of scales framed under sections 105A and 106, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Part VI.

³ The words "rates, charges and fees" in s. 106 were inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895), s. 8, in Vol. III of this Code.

⁴ The word "any" in s. 106, was repealed by s. 8 of the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895), and is omitted.

⁵ These words in square brackets in s. 106 were substituted for the words "for hire" by the Calcutta Port (Amendment) Act, 1905 (Ben. Act 4 of 1905), s. 6, in Vol. III of this Code.

⁶ This clause in square brackets in s. 106 was inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895), s. 8, in Vol. III of this Code.

⁷ Act 10 of 1889 has been repealed and re-enacted by the Indian Ports Act, 1908 (Act 15 of 1908), and this reference should now be construed as a reference to the latter Act (in General Acts, 1894-06, Ed. 1909, p. 642)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-97, Ed. 1909, p. 579.

⁸ These words in square brackets in s. 108 were substituted for the original words by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 8 (7), in Vol. III of this Code.

⁹ The words "or any portion or description of" in s. 108, were inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895) s. 9, in Vol. III of this Code.

¹⁰ The word "sea-going", in s. 108, was inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895), s. 9, in Vol. III of this Code.

[Ben. Act 2]

(Chapter IV.—Of the General Powers of the Commission.—
Part IX.—Of Levying Tolls and Rates.—Secs. 109-111.)

being within the limits of the port, whether such goods shall or shall not be so landed or shipped at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners,

such¹ [general or differential] tolls, dues, rates and charges,² in addition to, or other than, those prescribed by any scale of tolls, dues, rates and charges for the time being in force under the provisions of sections 103, ³ [104 A] ⁴ [and] 107 * * *
[as the Commissioners may think fit and expedient]:—

⁵ [Provided that the said goods may, for the purpose of this section, be classified by weight, measurement, number and value, and the tolls, dues, rates and charges leviable may be varied according as the goods are imported or exported goods.]

Mode of levy
and recovery
of additional
general or
differential
tolls, etc.

109. Such⁶ [additional general or differential] tolls, dues, rates and charges⁷ shall be fixed and adopted in accordance with a resolution passed by the Commissioners at a meeting, and shall be submitted to the Local Government; and if the same shall be approved by it shall be published in the Calcutta Gazette, and shall forthwith come into operation and remain in operation until altered or revoked by the Commissioners in meeting, with the sanction of the Local Government; and shall be leviable and recoverable in like manner as any other tolls, dues, rates and charges payable under this Act.

110. (Power of Local Government to charge tolls, etc., on neglect of Commissioners to do so). *Rep. by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 2.*

Recovery of
tolls in arrear.

111. (1) For the amount of all tolls, dues, rates and charges duly leviable under this Act in respect of any goods, the Commissioners shall have a lien on such goods, and shall be entitled to seize and detain the same until such tolls, dues, rates and charges are fully paid.

(2) Toll, dues, rates and charges in respect of goods to be landed shall become payable immediately on the landing of the goods.

(3) Toll, dues, rates and charges in respect of goods to be removed from the premises of the Commissioners, or to be

¹ The words "general or differential", in s. 108, were inserted by the Calcutta Port (Amendment No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 9, in Vol. III of this Code.
² For charges imposed under ss. 106 and 108, see Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

³ This reference to s. 104 A was inserted in s. 108 by the Calcutta Port (Amendment No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 9, in Vol. III of this Code.

⁴ This word "and" was substituted for "to" by the Calcutta Port (Amendment No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 9, in Vol. III of this Code.

⁵ The words "(both inclusive)", were repealed by the Calcutta Port (Amendment No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 9, and are omitted.

⁶ The words "as the Commissioners may think fit and expedient", in s. 108, were substituted for the words "as will, when added to the said income of the year, suffice as nearly as may be for the payment of the said sums in full" by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 4 (2), in Vol. III of this Code.

⁷ This proviso to s. 108 was added by the Calcutta Port (Amendment No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 9, in Vol. III of this Code.

⁸ These words "additional general or differential", in s. 108, were inserted by the Calcutta Port (Amendment No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 10, in Vol. III of this Code.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part IX.—Of Levying Tolls and Rates.—Secs. 112, 113.)

shipped for export, shall be payable before the goods are removed or shipped.

(4) The lien for such tolls, dues, rates and charges shall have priority over all other liens and claims, except for general average, for the ship-owner's lien for freight upon the said goods where such lien exists and has been preserved in the manner hereinafter¹ provided, for primage, and for money payable to Her Majesty or the Secretary of State for India in Council under any law for the time being in force:

Provided that nothing in this Act shall affect any power or authority vested in the Chief Officer of Customs under any law for the time being in force.

¹ 112. (1) The responsibility of the Commissioners for the loss, destruction or deterioration of animals or goods, whether landed for import or received for export or for carriage by railway,

Responsibility of Commissioners for loss, destruction or deterioration of animals or goods.

during such time as the same remain in the possession or under the control of the Commissioners,

shall, subject to the other provisions of this Act, and, in the case of animals or goods received for carriage by railway, subject also to the provisions of the Indian Railways Act, 1890,² be that of a bailee under sections 151, 152 and 161 of the Indian Contract Act, 1872,³ omitting the words "in the absence of any special contract" in section 152 of the last-mentioned Act.

9 of 1890.

9 of 1872.

(2) With the previous sanction of the Local Government, and under such circumstances and conditions as the Local Government may prescribe, the Commissioners may enter into an agreement relating to animals or goods landed for import or received for export or for carriage by railway, which may impose upon the Commissioners a greater responsibility than that imposed by sub-section (1).

(3) Every such agreement must be in writing and must be signed by, or on behalf of, the Commissioners.

113. (1) The Commissioners shall, immediately upon the landing⁴ [by them] of any goods, take charge thereof, and store such as are liable to suffer from exposure in any shed or warehouse belonging to the Commissioners.

Commissioners to take charge of goods landed by them.

(2) If any owner, without any default on the part of the Commissioners, fail to remove any goods [other than those stored in warehouses licensed under section 16⁵ of the Sea Customs Act, 1878.] from the premises of the Commissioners

Goods not stored in licensed warehouses to remain at risk and expense of owner if not removed within three days.

of 1878.

¹ See s. 116, post, page 1048.

² This section was substituted for the original sec. 112 by the Calcutta Port (Amendment) Act, 1898 (Ben. Act 2 of 1898), s. 2, in Vol. III of this Code.

³ Printed in General Acts, 1887-97, Ed. 1909, p. 232.

⁴ Printed in General Acts, 1868-78, Ed. 1909, p. 278.

⁵ The words "by them" in s. 113 were inserted by the Calcutta Port (Amendment) Act, 1894 (Ben. Act 2 of 1894), s. 2, in Vol. III of this Code.

⁶ These words in square brackets, in s. 113 (2), were inserted by the Calcutta Port (Amendment) No. 1 Act, 1895 (Ben. Act 4 of 1895), s. 11, in Vol. III of this Code.

⁷ Printed in General Acts, 1868-78, Ed. 1909, p. 372.

[Section 114]

(Chapter IV.—Of the General Powers of the Commission.—
Part IX.—Of Levying Tolls and Rates.—Secs. 114-117.)

within¹ [three] clear working days from the time of landing, such goods shall remain on the premises at the sole risk and expense of the owner.

Commissioners to give notice to consignee, etc., of cessation of liability;

114. (1) Whenever the owner of any goods² [other than those stored in warehouses licensed under section 16³ of the Sea Customs Act, 1878,] fails to remove the same within the time specified in the last preceding section, the Commissioners shall give notice to the consignee or owner of such goods, if his address be known, by letter sent by post to such address or left thereat, that all liability which the Commissioners may have hitherto incurred in respect of such goods has ceased;

8 of 1874.

also to publish notice of expiry of such liability.

(2) and shall also publish in one or more daily newspapers notice of the expiry of such liability; and shall specify therein the numbers, marks and descriptions of such goods, so far as the same may appear.

Liability of consignee or owner with respect to goods stored in public warehouses.

115. In case the said goods⁴ [other than those stored in warehouses licensed under section 16⁵ of the Sea Customs Act, 1878,] shall be removed to the public warehouses, then the consignee or owner shall be liable to the charges for warehousing goods in such public warehouses; and goods shall remain subject to all liens to which they would have been liable if they had remained in the possession of the Commissioners, and to the power of sale hereinafter⁶ given.

8 of 1874.

Lien for freight preserved after landing of goods, if notice of lien be given.

116. (1) If the master or owner of any vessel, or his agent, at or before the time of landing from such vessel any goods at any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners shall give to the Commissioners notice in writing that such goods are to remain subject to a lien for freight or other charges payable to the shipowner, to an amount to be mentioned in such notice, such goods shall continue liable to the same lien (if any) for such charges as they were subject to before the landing thereof.

Goods to be retained in warehouses and sheds until discharge of lien.

(2) Such goods shall be retained either in the warehouses and sheds of the Commissioners or in warehouses licensed under section 16⁷ of the Sea Customs Act, 1878, or with the consent of the Chief Officer of Customs, in the public warehouses at the risk and expense of the owners of the goods, until the lien is discharged as hereinafter mentioned.

8 of 1874.

Commissioners may permit goods to be removed without regard to lien.

117. Upon the production to the officer of the Commissioners in that behalf of a document purporting to be a receipt for the amount claimed as due, or a release of freight, from the

¹ The word "three" in s. 113 (2) was substituted for the word "two" by the Calcutta Port (Amendment) Act, 1896 (Ben. Act 3 of 1896), s. 3, in Vol. III of this Code.

² These words in square brackets, in s. 114 (1), were inserted by the Calcutta Port (Amendment) No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 12, in Vol. III of this Code.

³ Printed in General Acts, 1844-78, Ed., 1909, p. 673.

⁴ These words in square brackets, in s. 115, were inserted by the Calcutta Port (Amendment) No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 13, in Vol. III of this Code.

⁵ See s. 113, post, page 1046.

⁶ This section was substituted for the former section 116 by the Calcutta Port (Amendment) No. 1) Act, 1896 (Ben. Act 4 of 1896), s. 3, in Vol. III of this Code.

[1890.]

*(Chapter IV.—Of the General Powers of the Commission.—**Part IX.—Of Levying Tolls and Rates.—Secs. 118-120.)*

person by or on whose behalf such notice shall have been given, it shall be lawful for the Commissioners to permit such goods to be removed without regard to such lien :

Provided they shall have used reasonable care in respect to the authenticity of such document.

118. If the tolls, dues, rates and charges payable to the Commissioners in respect of any goods under this Act are not paid, or if the lien of the shipowner for freight, where such notice as aforesaid has been given, is not discharged, Power of Commissioners to sell goods by public auction.

the Commissioners may, and, in the latter event, if required by or on behalf of the person claiming such lien for freight, shall, at the expiration of two months from the time when the goods were placed in their custody, or, if the goods are of a perishable nature, at such earlier period, being not less than twenty-four hours after the landing of the goods as they shall think fit,

sell by public auction the said goods, or so much as may be necessary to satisfy the amounts hereinafter¹ directed to be paid out of the produce of such sale.

119. (1) Before making such sale, ten days' notice of the same shall be given by publication thereof in the Calcutta Gazette, Notice to be given before sale of goods

unless the goods are of so perishable a nature as, in the opinion of the officer of the Commissioners in that behalf, to render immediate sale necessary or advisable, in which event such notice shall be given as the urgency of the case admits of.

(2) If the address of the owner of the goods has been stated on the manifest of the goods or in any of the documents which have come into the hands of the Commissioners, or is otherwise known, notice shall also be given to the owner of the goods by letter delivered at such address or sent by the post; Notice to be given to owner by letter if address be known.

but the title of a *bond fide* purchaser of such goods shall not be invalidated by reason of the omission to send the notice hereinbefore mentioned, nor shall any such purchaser be bound to inquire whether such notice has been sent.

120. (1) In every case of any such sale as aforesaid, the moneys received from the sale shall be applied as follows:— Application proceeds of sale.

- (a) in payment of the expenses of the sale;
- (b) in payment, according to their respective priorities, of the liens and claims excepted in section 111 from the priority of the liens of the Commissioners for tolls, rates and dues; and
- (c) in payment of the tolls, charges and expenses of landing, removing, storing or warehousing the same, and of all other charges due to the Commissioners under this Act in respect thereof.

¹ See s. 730 on this page.

(Chapter IV.—Of the General Powers of the Commission.—
Part IX.—Of Levying Tolls and Rates.—Secs. 121-122A.)

Surplus of
sale-proceeds
to whom to be
paid.

(2) The surplus, if any, shall be paid to the importer, owner or consignee of the goods, or to his agent, on his applying for the same:

Provided that such application be made within one year from the sale of the goods, or good reason be shown why such application was not so made to the satisfaction of the Commissioners; and in case such application shall not be so made, nor reason shown, such surplus shall be held by the Commissioners upon trust for the purposes of this Act.

Power of
Collector of
Customs to
distrain
vessels for
non-payment
of tolls.

121. If the master of any vessel in respect of which any tolls, dues, rates, penalties or charges shall be payable under this Act, or any rules or orders made in pursuance thereof, shall refuse or neglect to pay the same or any part thereof on demand,

it shall be lawful for the Commissioners to apply to the Collector of Customs of the Port of Calcutta,

and such Collector shall distrain or arrest of his own authority such vessel, and the tackle, apparel and furniture belonging thereto, or any part thereof, and detain the same until the amount so due to the Commissioners shall be paid;

and in case any part of the said tolls, dues, rates, penalties or charges, or of the cost of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment shall have been so made, the Collector of Customs may cause the vessel or other thing so distrained or arrested to be sold,

and with the proceeds of such sale may satisfy such tolls, dues, rates, penalties or charges, and costs, including the costs of sale remaining unpaid; rendering the surplus (if any) to the master of such vessel on demand.

Port clearance
not to be
granted
until tolls,
etc., are
paid.

122. If the Commissioners shall give to the officer of Government, whose duty it shall be to grant the port clearance of any vessel, a notice stating that an amount therein specified is due in respect of tolls, dues, rates or charges, or penalties chargeable under this Act or any by-laws, rules or orders made in pursuance thereof, against such vessel, or the owner or master of such vessel in respect thereof, or against or in respect of any goods on board such vessel,

such officer shall not grant such port clearance until the amount so chargeable shall have been paid.

Warehouses
may be made
bonded
warehouses,
and
warrants may
be granted.

122A. (1) All warehouses of the Port Commissioners shall be deemed to be private warehouses and capable of being licensed as such under section 16¹ of the Sea Customs Act, 1878; ^{8 of 14} and all the provisions of that Act relating to licensed private warehouses shall be applicable to all such warehouses.

¹ Section 122A was inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895), s. 15, in Vol. III of this Code.

⁸ Printed in General Acts, 1898-74, Ed. 1908, p. 422.

of 1890.]

(Chapter IV.—Of the General Powers of the Commission.—
Part IX.—Of Levying Tolls and Rates.—Chapter V.—
Of the Powers of the Commissioners as Conservators
of the Port.—Secs. 122–124B).

of 1878. (2) The warrants delivered under section 96¹ of the Sea Customs Act, 1878, shall, in the case of the said warehouses, be signed by the Commissioners or some person duly authorized by them in that behalf.

^{122B.} It shall be lawful for the Commissioners to give, in the manner provided by section 53, general security, by bond or otherwise, for payment of the import duty due on goods stored in bonded warehouses, or for the due exportation of such goods. When such security shall have been given by the Commissioners, no further security shall be required by the Chief Customs Authority from any other person to the same effect.

Commis-
sioners may
give security
for duty on
bonded goods

of 1878. ^{122C.} The Commissioners shall not be liable to compensate the owners of petroleum stored in any warehouse licensed under section 16² of the Sea Customs Act, 1878, for any loss by fire, however arising, or for any deterioration or damage or diminution in quantity by leakage or otherwise, unless such deterioration, damage or diminution has been caused by the negligence of the Commissioners or their servants.

Commis-
sioners may
store goods
in bonded
warehouses

CHAPTER V.

(OF THE POWERS OF THE COMMISSIONERS AS CONSERVATORS OF THE PORT.)

123. (1) Any port dues, fees or other charges received by the Commissioners as Conservators of the Port shall be deemed to be a portion of their income, and shall be included in their annual estimates and accounts.

Port dues
received
by Commis-
sioners as
Conservat-
ors of Port
to form part
their income

(2) All the powers, authorities and restrictions contained in this Act in respect of the works by this Act authorized, shall apply to the works which may be executed by the Commissioners as such Conservators, to the sanction thereof, the estimates therefor, and the expenditure thereunder.

Powers,
etc., of
Commis-
sioners as
Conservat-
ors

124. Whenever the Local Government shall, under the provisions of the Indian Ports Act 1889⁴ issue an order which shall specify the amount of charge to which the Commissioners shall be liable in respect of the port dues and fees to be

Port dues
etc., receiv-
ed by Commis-
sioners as
Conservat-
ors to be
included in
dues to
Government

¹ Printed in General Acts, 1868–78, Ed. 1909, p. 644.

² Sections 122B and 122C were inserted by the Calcutta Port (Amendment No. 1) Act, 1895 (Ben. Act 4 of 1895), s. 15, in Vol. III of this Code.

³ Printed in General Acts, 1868–78, Ed. 1909, p. 632.

⁴ Act 10 of 1889 has been repealed and re-enacted by the Indian Ports Act, 1908 (15 of 1908), and this reference should now be construed as a reference to the latter Act (in General Acts, 1904–09, Ed. 1908, p. 519)—see the General Clauses Act, 1897 (10 of 1897), s. 3, in General Acts, 1878–97, Ed. 1909, p. 579.

[Ben. Act.]

(Chapter VI.—Of Wrecks.—Chapter VII.—Of By-Laws.—
Secs. 125, 126.)

received by them as Conservators of the Port, the same shall be deemed to be a sum of money advanced by the Secretary of State for India in Council, and to be due on the day on which such order shall take effect.

CHAPTER VI.

OF WRECKS.

Commissioners
to exercise
functions of
Receiver of
Wreck.

125. The Commissioners shall, if and when appointed under the provisions of section 73¹ of the Indian Merchant Shipping Act, 1880, to be Receivers of Wreck within the limits of their jurisdiction, exercise within such limits all the functions of a Receiver of Wreck under the said Act. 7 of 1880.

CHAPTER VII.

OF BY-LAWS.

Power to
make, alter or
repeal by-
laws.

126. (1) It shall be lawful for the Commissioners in meeting, from time to time, to make such by-laws² consistent with this Act and with the Indian Ports Act, 1889,³ as they may think necessary, for any of the following purposes (that is to say) :— 10 of 1889

- (a) for regulating, declaring and defining the docks, wharves, quays, stages, jetties and piers on and from which goods shall be landed from, and shipped in, vessels within the port ;
- (b) for regulating the manner in which, and the conditions under which, the loading and discharging of all vessels within the port shall be carried out ;
- (c) for the safe and convenient use of such docks, wharves, quays, stages, jetties and piers, and of landing-places, warehouses, warehouses licensed under section 16⁴ of the Sea Customs Act, 1878, sheds and other works⁵ in and adjoining the same ; 8 of 1878.

¹ Printed in General Acts, 1879-86, Ed. 1909, p. 64.

² This section was substituted for the former section 125 by the Calcutta Port (Amendment No. 2) Act, 1896 (Ben. Act 6 of 1896), s. 6, in Vol. III of this Code.

³ For a list of by-laws made under section 125, see the Bengal Local Statutory Rules and Orders, 1912, Vol. I, Pt. VI.

⁴ Act 10 of 1869 has been repealed and re-enacted by the Indian Ports Act, 1908 (15 of 1908), and this reference should now be construed as a reference to the latter Act (in General Acts, 1904-09, Ed. 1909, page 519)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts, 1887-87, Ed. 1909, page 875.

⁵ Printed in General Acts, 1868-78, Ed. 1909, p. 522.

of 1890.]

(Chapter VII.—Of By-Laws.—Chapter VIII.—Of the Constitution and control of Port Police Force.—Secs. 127-129.)

- (d) for regulating the reception and removal of goods within and from the premises of the Commissioners, and for declaring the procedure to be followed for taking charge of goods which may have been damaged before landing, or may be alleged to be so damaged ;
- (e) for the mode of payment of tolls, dues, rates and charges levied under this Act ;
- (f) for the removal of wrecks from the port or the river, and keeping clean the port, the river, the bank of the river, and the works of the Commissioners, and for preventing filth and rubbish being thrown therein or thereon ;
- (g) for regulating the hours during which European seamen and apprentices shipped on the same footing as European seamen may be employed on boardships lying in the port, or on docks, wharves, quays, stages, jetties and piers, in work necessitating exposure to the sun ;
- (h) for the guidance of persons employed by them under this Act ; and
- (i) for otherwise carrying out the purposes of this Act.

(2) The Commissioners in meeting may, from time to time, repeal, alter, or add to, any by-law made under this section.

(3) No by-law, repeal or alteration of any by-law shall have effect until the same is confirmed by the Local Government.

(4) No by-law, and no repeal or alteration of, or addition to, any by-law, shall be confirmed until the same has been published in three consecutive numbers of the Calcutta Gazette.

127. In making any by-law under the last preceding section, the Commissioners in meeting may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and, when the breach is a continuing breach, with a further fine which may extend to two hundred rupees for every day after the first during which the breach continues.

Penalty for infringement of by-laws.

128 The Commissioners shall cause the said by-laws, and the tables of tolls, dues, rates and charges leviable, to be printed in the English and Bengali languages and characters, and to be hung up at the several docks, wharves, quays and jetties, and other convenient places on the premises of the Commissioners.

By-laws and tables of tolls, etc., to be printed and hung up at docks, etc.

CHAPTER VIII.

OF THE CONSTITUTION AND CONTROL OF PORT POLICE FORCE.

129. A Police Force shall be formally enrolled for the Port of Calcutta, to be styled the "Port Police Force," and

Consisting of Port Police Force.

[Ben. Act 3]

(Chapter VIII.—Of the Constitution and Control of Port Police Force.—Chapter IX.—Of the Port Police Budget.—Secs. 130-134.)

shall consist of a Special Superintendent, to be called the "Superintendent of Port Police," and such number of officers and men as the Local Government shall, from time to time, direct.

Police
to be
control
of
ce.

Superintend-
of Port
ce to act
control
of
ce.

Superintend-
of Port
ice to
mit daily
vts of
nces.

130. The Port Police Force shall be under the direction and control of the Commissioner of Police for Calcutta, and shall form a portion of the Police Force of Calcutta, and shall be subject to the provisions of the Calcutta Police Act, 1866.¹

Ben. Act 4
of 1866.

131. The Superintendent of Port Police shall, in all matters connected with the prevention of crime, and the detection, apprehension and detection of offenders in order to their being brought before a Magistrate, and the preservation of the public peace, act under the direct control of the Commissioner of Police for Calcutta.

132. The Superintendent of Port Police shall submit daily reports to the Commissioner of all offences (if any) committed contrary to the provisions of this Act, or of the Indian Ports Act, 1889² or of any port rules and by-laws in force prescribed in accordance therewith, and of all accidents occurring on the river within the limits of the Port.

10 of 1889.

CHAPTER IX.

OF THE PORT POLICE BUDGET.

Commissioner
Police to
mit budget
estimate of
Police
ice to
mis-
ners.

Budget when
be laid
before
mis-
ners.

Budget to be
mitted to
and
Government.

133. (1) The Commissioner of Police, on or before the first day of January in each year, shall transmit to the Commissioners a budget or estimate of the expenses of the Port Police Force for the financial year commencing on the first day of April then next ensuing.

(2) The Police Budget shall show the various heads of expenditure of the Police Force.

134. (1) The Chairman shall lay every such budget before the Commissioners at the first meeting of the Commissioners held after such budget has been transferred.

(2) The Commissioners shall thereupon forward such budget to the Local Government, with such remarks as to them may seem fit; and it shall be in the discretion of the Local

¹ Printed note, page 88.

² Act 18 of 1889 has been repealed and re-enacted by the Indian Ports Act, 1908 (15 of 1908) and this reference should now be construed as a reference to the latter Act (in General Acts, 1904-09, Ed. 1909, p. 519)—see the General Clauses Act, 1897 (10 of 1897), s. 8, in General Acts 1897-97, Ed. 1909, p. 579.

of 1880.]

(Chapter X.—Miscellaneous.—Secs. 135-137.)—

Government to pass, or to reject, or to modify, all or any sums entered in the same.

(3) The amount of the estimates passed, or such proportion of the same as shall be fixed upon by the Local Government, shall be paid to such officer as the Local Government may from time to time direct, by the Commissioners.

Amount of estimates passed to be paid to officer appointed by Local Government.

CHAPTER X.

MISCELLANEOUS.

135. The Commissioners shall not be answerable for any act or default of any Conservator or Harbour Master of the Port, or of any Deputy or Assistant of the said officers, or of any person acting under the authority or directions of any such officer or assistant, heretofore or hereafter done within the limits of the Port;

Indemnity to Commissioners against default of officers, etc.

nor for any damage or injury heretofore or hereafter sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other thing belonging the Commissioners within the Port which may be used by such vessel:

Provided that nothing in this section shall protect the said Commissioners from an action in respect of any act done by, or under the express order or sanction of the said Commissioners.

136. If any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code,¹

Penalty for accepting illegal gratification.

16 of 1860.

shall accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever, other than legal remuneration as a reward for doing or forbearing to do any official act, or for showing or forbearing to show in the exercise of his official functions favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person with the Commissioners or with any public servant or with the Government as such,

he shall be liable to the same punishment as is provided for in that behalf by the Indian Penal Code¹ in the case of public servants.

15 of 1860.

137. Any person who wilfully deposits, or permits his servants to deposit any dust, dirt, dung, ashes, refuse or filth of any kind, or any animal matter, or any broken glass,

Penalty for committing certain nuisances or doings, etc.

¹ Printed in General Acts, 1834-67, Ed. 1909, p. 248.

(Chapter X:—Miscellaneous.—Secs. 138-142.)

earthenware or rubbish, in or upon any dock, wharf, quay, stage, jetty or pier belonging to the Commissioners, or in or upon any part of the river bank within the port, shall be liable to a fine not exceeding ten rupees for each offence.

jurisdiction in
case of
fences com-
mitted
within
Calcutta.

138. (1) Every charge of an offence against any provision of this Act, or of any rule, order or by-law made under the provisions of this Act, alleged to have been committed within Calcutta, may be instituted before any Magistrate having jurisdiction, who may summon the person charged to appear at a time and place to be mentioned in the summons;

and if such person do not appear, the Magistrate may, upon proof of service of the summons, if no sufficient cause shall be shown for the non-appearance of the person charged, proceed to hear and determine the case in his absence.

(2) If such person do appear, then the procedure laid down in the Code of Criminal Procedure, 1882,¹ from sections 242 to 248 (both inclusive), shall be followed. 10 of 1882.

jurisdiction in
case of
fences com-
mitted out
Calcutta.

139. Every charge of an offence against the provisions of this Act, or of any rule, order or by-law made under the provisions of this Act, alleged to have been committed out of Calcutta, may be heard and determined by any officer authorized to exercise any of the powers of a Magistrate in the place in which such offence may be alleged to have been committed, according to the provisions of the Code of Criminal Procedure, 1882.² 10 of 1882.

police-officers
give
immediate
information
certain
fences.

140. It shall be the duty of all police-officers, whether members of the Port Police Force or not, to give immediate information to the Commissioners of any offence committed contrary to the provisions of this Act, or of the Indian Ports Act, 1889³, or of any by-laws or rules having the force of law prescribed in accordance therewith. 10 of 1889.

police officer
may arrest
persons
committing
offences.

141. (1) Any such police-officer may arrest any person committing in his view any offence against any of the said provisions, if the name and address of such person be unknown.

(2) Such person may be detained at the station-house until his name and address shall be correctly ascertained.

no allowed
institution
suits.

142. No suit shall be brought against any person for anything done, or purporting or professing to be done, in pursuance of this Act, after the expiration of three months from the day on which the cause of action in such suit shall have arisen.

¹ Act 10 of 1882 has been repealed and re-enacted by the Code of Criminal Procedure, 1898 (5 of 1898), and this reference should now taken to be made to sections 242 to 248 (both inclusive) of the latter Act—see s. 3 (1) thereof, in General Acts, 1898-1908, Ed. 1909, p. 88.

² This reference should now be taken to be made to the Code of Criminal Procedure, 1908 (5 of 1908)—see s. 3 (1) thereof, in General Acts, 1898-1908, Ed. 1909, p. 88.

³ Act 16 of 1889 has been repealed and re-enacted by the Indian Ports Act, 1908 (15 of 1908), and this reference should now be construed as a reference to the latter Act (in General Acts 1894-09, Ed. 1909, p. 519)—see the General Clauses Act, 1897, 10 of 1897, s. 6, in General Acts, 1887-97.

(First and Second Schedules.)

FIRST SCHEDULE.

(See section 2.)

Acts of the Lieutenant-Governor of Bengal in Council.

Number and year.	Subject.	Extent of repeal.
Act V of 1870	To appoint Commissioners for making improvements in the Port of Calcutta.	So much as has not been repealed.
Act IV of 1879	To provide for the levy of fees upon certain passenger boats and steam-furries.	The whole.
Act IV of 1880	For amending the Calcutta Port Improvement Act, 1870.	So much as has not been repealed.
Act I of 1881	To amend the Calcutta Port Improvement Act (Amendment Act), 1880.	The whole.
Act II of 1883	To amend the Calcutta Port Improvement Act, 1870	Ditto.
Act II of 1886	To enable the Commissioners for the Port of Calcutta to construct docks.	Ditto.
Act III of 1887	To amend the Calcutta Port Improvement Act, 1870	Ditto.

SECOND SCHEDULE.

FORM OF DEBENTURE.

Rep. by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 10.

¹ SECOND SCHEDULE.

(See section 91.)

FORM OF RECEIPT FOR GOODS.

By the Commissioner of the Port of Calcutta.

LANDED during the day of from the
by the Commissioners of the Port of Calcutta the noted
in the margin (if there be any apparent injury this is to be
stated), contents and state of the contents unknown.

For the Commissioners of the Port of Calcutta,

A. B.

CALCUTTA ;

day of 18 .

¹ This Schedule was originally numbered "Third Schedule," and has now been re-numbered "Second Schedule" by the Calcutta Port (Amendment) Act, 1907 (Ben. Act 2 of 1907), s. 10, in Vol. III of this Code.

